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EDINBURGH REVIEW

















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# SELECTIONS

FROM THE

# EDINBURGH REVIEW;

COMPRISING

THE BEST ARTICLES IN THAT JOURNAL,

FROM ITS COMMENCEMENT TO THE PRESENT TIME.

WITH

A PRELIMINARY DISSERTATION,  
AND EXPLANATORY NOTES.

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EDITED BY MAURICE CROSS,

SECRETARY TO THE BELFAST HISTORICAL SOCIETY.

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## PART FIRST.

### POLITICAL ECONOMY — LAWS AND JURISPRUDENCE.

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#### ON THE ADVANTAGES TO BE DERIVED FROM THE STUDY OF POLITICAL ECONOMY.\*

MAN, after all, has but a Soul and a Body;—and we can only make him happy by ministering to the wants of the one or the other. These wants, and the enjoyments which result from supplying them, differ, no doubt, both in degree and in dignity, according as they refer to the spiritual or animal part of our complex nature—though, in its happiest state, both are capable of being very harmoniously blended. Those that belong to the mind are the highest certainly, and the best—but their importance is not so early or so universally felt:—the pursuit of them forms scarcely any part of the occupation of rude nations; and, even in the most civilized, they are but little valued or understood by the great body of the people.

To this class, besides the hopes of Religion and the testimony of approving conscience, which may subsist in minds not very highly cultivated, belong the gratifications arising from the exercise of Intellect, Imagination, and Taste, together with the enjoyments that spring from the benevolent Affections, and those higher sympathies of our nature, which give rise to the love of Country or of Fame, and all those exalting tendencies which Lord Bacon has emphatically termed Heroic desires.

The lower wants and gratifications, again, to which the toils and wishes of the great bulk of mankind are nearly confined, have for their object little more than what may be comprised under the familiar but comprehensive name of the Necessaries, the Comforts, and the Luxuries of their daily existence—‘meat, clothes, and fire;’ in their simplest, or their most exquisite forms—and the leisure and security and importance that belong to the possession of Property.

Political Economy, in the exercise of its primary and direct functions, aims only at the multiplication of these last and lower gratifications. It is the science of Wealth, Trade, and Population:—and its end and object is, to show how Industry may be employed to the best advantage—or how, with the least labour and the least waste of materials, the greatest quantity of comfort and enjoyment may be created for the use of man.

If there be any certainty in such a science as this, and if it can really reveal and establish to its disciples any truths that are not already known to all thinking men, it is needless to say, that in practical value and importance it must far transcend any thing to which the name of science has hitherto been given among men. It is no longer doubtful, however, we think, that it answers both these conditions: and even this

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\* McCulloch's Discourse on the Rise, Progress, and Importance of Political Economy.—Vol. xliii. page 1. November, 1825.



gives but an imperfect idea of its actual worth and importance. Though *directly* conversant only about wealth and industry — though having for its *immediate* object but the bodily comforts and worldly enjoyments of men, it is certain that it is at the same time the best nurse of all elegance and refinement, the surest guarantee for justice, order, and freedom, and the only safe basis for every species of moral and intellectual improvement.

Till men, by the accumulation of property, have earned for themselves some remission from daily toil, and obtained some degree of leisure, comfort, and security, it is certain that they can neither cultivate their understandings, assert their rights, or be kind to their neighbours. They are mere brutish drudges — supplying their animal wants by the exertion of animal strength — and thinking of nothing more exalted. But, as certainly as they are raised above this wretched condition, and released from this servile toil, so certainly will the germs of intelligence and moral sensibility be developed, and all the fountains be unlocked, from which genius and affection are to derive the appropriate enjoyments of a rational nature. Whatever tends, therefore, to diffuse those more homely comforts through the body of society, tends also most effectually to promote its moral and intellectual improvement; and the science which can teach us how to make industry more productive, and with diminished labour to provide a larger quantity of the common necessities and comforts of life, is in truth the science to which we are indebted for all its higher and more refined enjoyments.

All these great results, indeed, follow necessarily from the simple and certain fact, that whatever renders labour more productive must both render its products more attainable, and give greater leisure to those who produce them. It is this *leisure*, — this precious, though apparently burdensome leisure, that works all the miracle. Man, in truth, *cannot* be idle: and though he may sometimes complain of the bitterness of the bread which he eats with the sweat of his brow, he would unquestionably find it ten times more bitter if it could be eaten in absolute idleness, and without any considerable exertion either of the body or the mind. Those, therefore, who are relieved from the necessity of working for mere subsistence, will generally be willing to work for comforts and luxuries — and those who, by their labour, have accumulated more than they can consume, will always be willing to exchange it for delights; while the increased leisure and comfort of the whole community will unavoidably lead them to cultivate their social affections, and to divert their *ennui* by intellectual exercises and contentions. The finer works, too, for which a demand has thus been created, require more skill and ingenuity than the ruder labours of agriculture or the chase; and invention is stimulated, and talent called into action, in all ranks of the society. While enjoyments are multiplied and refined, therefore, intellect is developed — and brings with it far higher and more precious enjoyments than those for the sake of which it was first called into action.

It was probably nothing but the prospect of advantage from draining coal-pits, or turning machinery without horses, that set Watt upon the improvement of the Steam-engine: and yet, who that considers the many beautiful contrivances and masterly inventions that are combined in this great triumph over the inertness of water, will say that the cheapness of coals, or of cotton twist, is all that mankind has gained by the discovery? The delight with which it is contemplated by all specula-



tive minds, and the stimulus it has given to the reasoning and inventive faculties of so many thousands of human beings, in every quarter of the globe, are, in our estimation, benefits of a far higher order—to say nothing of the intellectual gratification, improvement, and pride which the illustrious discoverer must himself have experienced in the progress and consummation of his labours. This last, however, is an element by no means to be disregarded. We are sometimes disposed to murmur at the inadequate reward which genius receives from the sordid opulence which so often assumes the character of its patron or protector; and to feel indignant that a great artist should, for a paltry price, or more paltry salary, devote his immortal talents to gratify the vanity of some thankless and tasteless employer. Nothing, however, can be more erroneous, on the whole, than this impression. *The true reward* of the artist is the delight, the triumph, the improvement, he himself derives from those exertions, to which he was probably at first stimulated by the paltry price or salary he receives,—and the never-ending delight and improvement which the contemplation of his works will produce to the latest posterity. He may sell his picture indeed, or his statue,—and part with the possession of the material form in which some of the lofty and beautiful conceptions of his genius have been shadowed out and embodied. But the genius itself he cannot sell—the lofty emotions, the fine perceptions, the delicate sensibilities, the grand *originals*, in short, of which the best of his works are but faint and imperfect copies, he can neither alienate nor transfer. These remain with him for ever—and minister to him a delight necessarily superior to that which is shared by the least unworthy of his admirers in all succeeding generations,—and in comparison with which, the price which he has received for his labours is as truly contemptible as the feeble gratification of its first vain and incapable acquirer.

These are extreme cases—but the truth which they illustrate is exemplified in every rank of society. As soon as the productive powers of industry have been so improved as to afford some accumulation of its products beyond what are required for daily subsistence, *two* effects will immediately follow:—*First*, that some men will be released from the necessity of working, and left to employ their leisure in intellectual or social enjoyments; and, *second*, that a part of those who continue to work will be called upon for work requiring more ingenuity than the supply of mere subsistence; and induced, in this way, both to exert their faculties, and to raise their estimate of what is necessary for their comfortable existence. This double effect of the increased productiveness of labour on the lowest and most numerous class is plainly of the greatest importance in the general improvement of society. The persons of whom we now speak are still condemned, no doubt, to labour, and have comparatively but few hours of leisure or spontaneous employment. But they no longer labour for a mere wretched subsistence—and above all, they no longer labour as mere drudging animals, but exercise their minds as well as their bodies, and make daily advances in intellectual force and activity. In all countries where circumstances are favourable, or political economy well understood, an intelligent artisan enjoys a multiplicity of comforts and luxuries which are utterly unattainable in a rude state of society—at the same time that he is every day called upon for efforts of skill and ingenuity which, though undertaken in the first instance entirely for the sake of the wages he receives, have in reality, and in the long run, a far higher reward,—in the gradual cultivation



and improvement of all his intellectual faculties, the enlargement of his views, the development of his moral sensibilities, and the infinite multiplication of his best capacities of enjoyment. It is by *this* process unquestionably that the body of any society ever becomes intelligent, moral, or refined ; and reflection and observation concur to show, that their progress in these attainments is uniformly proportional to the increase of their wealth and industry ; and that there is in fact no other training by which they can be exalted into intellectual beings, but that which is necessarily involved in their pursuit of those vulgar comforts and venal luxuries which may seem at first sight to terminate in selfishness and sensuality. The sun of Science may shine on them from above, and industrious teachers may even scatter the seeds of instruction among them below, but if the soil has not been stirred and manured by the previous cultivation of humbler crops, there will be no return either of blossoms or of fruit ; and the region will continue for ever bare of any stately or noble growth.

Even in the present advanced state of European civilization, there is no country where *the chief* obstruction to the higher attainments and enjoyments of our nature is not to be found in the deficiency of this preparatory training, rather than in the want of the means of instruction — none, in which the imperfect development of the productive powers of industry, and the consequent want of wealth, comfort, and leisure, in the great body of the people, is not *the main cause* of their want of intelligence, taste, or morality — none, in which economical improvements would not still make a prodigious addition, not merely to the riches, power, and splendour of the nation at large, but render the whole body of the people individually far more enlightened, considerate, and judicious — and, by necessary consequence, more orderly, candid, and humane. And little as we are disposed to underrate the evils of tyranny, we verily believe, that — if we look rather to the happiness that is intercepted, than the positive sufferings inflicted — a greater proportion of the actual misery of the world is to be ascribed to the ignorant improvidence of governments as to the excitement and direction of national industry, than to their jealousy of freedom, their cupidity, their selfishness, or their ambition.

If there be any portion of truth, however, in all this, we cannot easily estimate too highly the science which promises to deliver us from those evils,—and, by increasing the comforts and leisure of the whole people, to lift them by safe degrees from worldly to intellectual enjoyments. And yet we hear it sometimes asserted, and even by persons who do not dispute the general truth of what we have now been saying — that there is truly no science and no secret in the matter — that what are called the doctrines of political economy are really nothing else than some very plain maxims of common sense, in which all rational men must concur, without reasoning or teaching — and that the practical result of its boasted demonstrations comes to no more than this — that tradesmen and traders should be left to follow their own interests in their own way ! Plausible as this may perhaps appear to those who have looked only at the outside of the subject, it is certain, we think, that nothing can be more substantially erroneous, and that the admixture of truth only makes the error more pernicious.

As a science conversant with *moral* and not with *physical* elements, political economy can of course appeal to no higher authority than that of common sense ; as is avowedly the case also with the abstract

sciences of Logic and Metaphysics — and their more practical derivatives, Ethics, Politics, and Law. But if the difficulty of preparing its cases for the adjudication of that high tribunal, the extent and intricacy of the subordinate reasonings which must be employed, and the certainty and importance of the *systematic* truths that are ultimately evolved, are the *criteria* by which its title to that appellation is to be determined, we have no hesitation in saying, that it is in every respect *much more of a Science* than any of those which we have now enumerated. That its ultimate principles are few and simple, and that many of its most important propositions may be deduced from them by a short and conclusive train of reasoning, are facts that prove but more plainly the strictly *scientific* character of the truths which it discloses — while the other, and not very consistent, imputation, that its votaries are more occupied in exposing the errors of their predecessors than in establishing any useful truths of their own, not only affords a striking illustration of the conformity of its history with that of all the other moral sciences, but demonstrates the actual difficulty of the speculations with which it is engaged. The admitted fact, that errors, now *universally* recognised as such, have been committed, *against the interest* of all the parties concerned in them, and maintained and defended by men of the greatest abilities and information, is of itself sufficient to prove, that the truths of Political Economy are so far from being self-evident, as to be in fact among the most recondite and abstruse that human intellect has ever been employed to develop; while the general consent of the world in the results that have at last been established, and the practical good, indeed, of which they have been found to be productive, shows satisfactorily that those truths are not unattainable, but may, by diligent and cautious study, be gradually systematised and extended.

It is fortunately very true, that many of the most important of those truths have been already so triumphantly established, that they are not only in no danger of being again called in question, but have become matters of vulgar notoriety, and are constantly referred to and acted upon by thousands who would have been incapable of eliciting them from the masses of error and prejudice through which it was at first necessary to assert them. The general advantages of the *freedom* of Trade — the good effects of *Luxury*, or an increase of artificial wants — the folly of regarding *Money* as of more value than any other exchangeable commodity, and several others of the same sort, may now be ranked in this number. Yet there is not one of those that was not regarded as a most dangerous heresy at its first introduction — not one which had not to be fought for, not merely against the clamours of the vulgar, but against the authority of the very greatest statesmen and philosophers of the modern and the antient world. Though the general principles, however, are admitted, a struggle is still maintained, in certain quarters, as to the safety or expediency of giving effect to them in all possible situations; and it is contended that there ought to be *exceptions*, — in the case of the *corn* trade — the *usury* laws — the monopolies of the East India Company and the West India planters, and in some other cases. The battle, however, is now waged, as to these, on avowedly partial and almost avowedly on interested grounds; and, so far as purely economical principles are concerned, they may safely be added to the number of those on which public opinion is conclusively made up, and future delusion impracticable. We cannot but



think, that we may include in the same class the questions as to Paper currency, the general effects of the Poor Laws, and the possibility of two countries trading with great *mutual* advantage, although in one of them the rate of wages is far lower than in the other, and the facilities of production equal.

There remain, however, undoubtedly many questions, and some of great practical importance, on which the vulgar are not yet thus in safety to act, because the learned have not yet unanimously decided,—and on which, while *they* continue to differ, it must be allowed to be the height of presumption in any one to make up his mind, or to act, without consideration and study. We allude now to the questions as to the proper constituents of *Value*—the true nature of *Rent*—the proper effects of *Taxation* and public *Debt*, and the possibility of an *Excessive* production.

But if the abstract and general principles of the science were in themselves far more simple and obvious than they really are, the study would still be in the highest degree arduous and important, in so far as regards its useful and practical application. It might not, perhaps, be very difficult to lay down maxims for the regulation of trade and industry, in a new world, where all things were still in their natural and primitive condition, where there were no old prejudices to be overcome; and no old usages to be counteracted—and, above all, where no great interests had grown up in dependance on such usages, and no partial advantages were likely to result from the adoption of juster practices. It does not require much instruction to show, that water will always find its level; and in a country with untouched lakes and fountains, a great deal may be done on that simple principle, without any extraordinary hydrostatic or hydraulic knowledge. But, if great works have been already constructed in contempt of it—if vast sums have been expended in pumping up the waters beyond their natural point of elevation, and in maintaining basins and canals at such an artificial level, it is plain that these cannot be at once abandoned, without prodigious loss to individuals, and danger, perhaps, to the community; and that a far nicer and more exact estimate of the powers and forces employed will be necessary for a *restoration* of the true system than might have sufficed for its first adoption. A moderate degree of medical skill—little more, perhaps, than mere common sense and observation—may suffice to regulate the diet and exercise of a man in health; though it may task the learning of a whole college of physicians to prescribe, either safely or successfully, for the complicated maladies of a sick debauchee.

Such, however, is the state to which all European nations, and especially England, have now come—with such debts and taxes, and colonies and corporations,—so much capital invested in trades that would be extinguished by free competition—such complicated relations, created by treaty and by rivalry with foreign countries—such balanced and artificial interests in competition at home—that any step towards a better arrangement must be taken at the hazard of consequences that can with difficulty be foreseen: and the political economist, whose task has been represented as so extremely simple and easy, can only be compared to a pilot required to steer among innumerable cross currents and varying shoals; or a chemist called upon to improve the quality of a compound, in which numbers of re-acting substances are already in solution, and so many elective affinities acting in opposition



to each other, that nothing but the most exquisite skill can predict what precipitations or new combinations would result from the slightest disturbance.

In such a situation, it is worse than preposterous to maintain, that Political Economy is something too simple and easy to require teaching or study ;—and truly frightful to think, that rash and presumptuous men, who know nothing more than some of the broad and general results of Adam Smith's speculations, a few sweeping and comprehensive maxims that have passed into vulgar currency, and are no longer weighed by those who deal with them, should take it upon them to decide on the great questions of internal policy that now call imperatively for our decision, or be allowed to influence public opinion by their confident and senseless clamours. There is truth and certainty in this science unquestionably—nay, more truth and more certainty, we will venture to say, than in any other that deals only with *moral* elements; but assuredly they do not lie on the surface, or are to be attained without careful study and consideration. Considered with relation to practice and general utility, they are indisputably of more importance than any other truths, relating to his mere temporal interests, of which man can attain a knowledge; and we would earnestly invite all who wish to promote their own worldly prosperity, or who have the means of influencing either public opinion or individual conduct, to enter upon the study, and to pursue it with perseverance and in earnest. It is a study in itself, we think, highly interesting and attractive, both from the magnitude of the interests it involves, the great variety of historical notices and explanations it supplies, and the multitude and familiarity of the illustrations by which it is everywhere confirmed. In the far greater part of its doctrines, too, there is nothing perplexing or obscure — and the part that is plain and certain is not only clearly distinguishable from that which is questionable, but furnishes principles so precise and manageable for the elucidation of the difficulties that occur, that, with a fair measure of care and attention, the truth may be almost always evolved by a most satisfactory and beautiful deduction.

This science, which has been rapidly rising in importance and public estimation for the last fifty years, has lately acquired a peculiar and engrossing interest. The war of the sword has given place, over most of the civilized world, to the rivalry of commerce and finance — and the industrial resources of Europe, which had been neglected for nearly a century, are now everywhere pursued with an awakened intelligence and activity, with which it will require all our exertions to maintain a successful competition — while at home, the change of relations, occasioned by the sudden termination of a long and universal war, has shut up so many old, and opened so many new, channels to industry and commercial enterprise, that it has become the interest of almost every individual in the kingdom to consider in what manner capital and labour can be employed to the best advantage, and to ascertain, if possible, the principles by which adventure may be guided in safety to the attainment of wealth.

We may notice also, in this place, the great additional information which the commercial results of that extraordinary war incidentally afforded to the observer — and the many truths and errors which were, for the first time, experimentally established by the measures which were then adopted. 'The experience,' as Mr. M'Culloch has well



observed in the work before us:—‘the experience of previous centuries  
 ‘ was crowded into the short space of thirty years; and new combinations  
 ‘ of circumstances not only served as tests whereby to try existing  
 ‘ theories, but enabled even inferior writers to extend the boundaries  
 ‘ of the science, and to become the discoverers of new truths. It is  
 ‘ not too much to say, that the discussions that grew out of the restric-  
 ‘ tion on cash payments by the Bank of England, and the consequent  
 ‘ depreciation of the currency, have *perfected* the theory of Money; and  
 ‘ the discussions respecting the policy of restrictions on the Corn trade,  
 ‘ and the causes of the heavy fall of prices which took place subsequently  
 ‘ to the late peace, by inciting some of the ablest men that this country  
 ‘ has ever produced to investigate the laws regulating the price of raw  
 ‘ produce, the rent of land, and the rate of profit, have elicited many  
 ‘ most important and universally applicable principles; and have given  
 ‘ birth to a work rivalling the “Wealth of Nations” in importance,  
 ‘ and excelling it in profoundness and originality.’

The altered policy which these great and irresistible changes have already forced on our government must obviously lead to still further changes and corrections—the bearing and effects of which can only be determined by an enlightened consideration of some of the most delicate doctrines in the whole range of the science. The new and pleasing duty, too, which has been lately imposed on our rulers, of reducing and abating taxes, plainly calls for an exercise of economical skill, of no vulgar importance in itself, and for which they cannot have been prepared by any previous part of their training. The single problem that exercised the financial genius of the late reign—and that, heaven knows, most imperfectly solved—was how to *increase* taxation, with the least waste of capital or discouragement of industry. The task of encouraging it by *diminishing* taxation, though apparently more simple, and unquestionably more popular, is yet attended with nearly equal difficulties, and obviously requires a large and comprehensive knowledge both of facts and of principles—at once to foresee the facilities of improvement to which such remissions of imposts may give rise, and to determine the grounds of choice among the different remissions that may be suggested.

In addition to all these reasons for the general cultivation of this most important and most practical study, there is one other consideration, also arising out of the aspect of the times, that is probably of greater weight than any we have yet mentioned. We allude now to the rapid and remarkable progress which the lower orders are making in this and in all other branches of knowledge—as well as to the distinction and visible predominance that attaches in public life to those who can counsel on it with authority. Of all the derangements that can well take place in a civilized community, one of the most embarrassing and discreditable would be that which arose from the working classes becoming *more intelligent* than their employers. It would end undoubtedly, as it ought to end—in a mutual exchange of property and condition—but could not fail, in the mean time, to give rise to great and unseemly disorders. To avoid this, however, there seems to be nothing left for the richer classes but to endeavour to maintain their intellectual superiority by improving their understandings, and especially by making themselves thoroughly acquainted with those branches of knowledge on which they and their immediate dependents are most likely to come into direct collision. In a manufacturing



country like this, there is always a tendency to disagreement between the labourers and their employers ; and after a certain degree of intelligence has become general, and the means of communication have been made easy, there is really nothing, in our apprehension, that can prevent the perpetual hazard of the most frightful disorders, but to instruct both parties in the true principles of the relation by which they are connected. There is no natural issue to disputes which arise from ignorance on both sides — and not much chance for moderation in the conduct of them ; and it is plain that they will only be aggravated by being referred to the decision of a legislature infected with the same ignorance — or with the passions and delusions of *one* of the contending parties.

Such, however, is the class and description of questions with which public and private men are destined, according to all probability, to be almost exclusively occupied in the years that lie before us ; and in neither sphere can distinction or great utility now be hoped for, except from the possession of those qualifications which give a right to take a lead on such questions. The time, we may be assured, is gone by, when any permanent fame or substantial power can be obtained by mere brilliant eloquence or party zeal. The great body of the people are no longer to be led away from the care of their personal interests by the arts either of courtly or of factious declaimers. We fear, indeed, that they are becoming every day more indifferent, comparatively, even to proper constitutional questions. The prevailing opinion is, that the time of the legislature ought not to be consumed in eternal contentions as to *who* should administer our affairs, but be mainly devoted to their beneficial administration : and if those who are in possession of power will only act liberally and wisely in all that regards the pecuniary interests of the people, there is but too little disposition to resist their disregard of political rights. In the ordinary course of things, at all events, and in seasons of tranquillity, such questions are naturally of rare occurrence — while men are perpetually and eagerly alive to all that promises to aid or obstruct them in the pursuit of their worldly prosperity ; — and he therefore, and he alone, will be regarded with respect or admiration who is believed to understand the principles on which the general prosperity depends.

This general prosperity it is the peculiar object of political economy to promote ; but in a country where so many partial and opposing interests have been created, it is not easy at all times to determine what the general interest requires ; and as this can only be determined by examining and giving to each partial interest the effect to which it is entitled, it is plain that the discussion can never be fairly conducted, unless the champions of all those different interests be equally well instructed as to the principles concerned in the decision. Even without supposing any intentional partiality in the advocates, it is certain that the statement and argument of a party will always be partial. And, therefore, unless the parties be pretty equally matched in these contentions, an undue advantage will be obtained by those who understand most of the science with reference to which they are contending — an undue impression will consequently be made on the public and the legislature, and unreasonable disadvantages will be thrown upon those by whose unskilfulness their cause has been betrayed. The only remedy, however, for this great evil, is to have the public, the legislature, and, above all, the whole of the contending parties, sufficiently



instructed. It could do no good, we have seen, but probably a great deal of harm, to make them all ignorant. But this, at all events, is no longer possible; and as some of them will study enough of the science in question, to enable them to make a plausible statement in behalf of their own interests, the rest must study it also in their own defence, and protect the general interests in the pursuit of their own.

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### ENGLISH CRIMINAL LAW.\*

THERE is a tendency in man, connected with some of the least unamiable weaknesses of our nature, to reverence with an undue observance established practices and existing institutions, merely because they have been handed down through a succession of ages, and owe their origin to a period of society, in which, as Lord Bacon sagaciously remarks, the world was by so many ages younger and less experienced than it is in our own times. This feeling, while it resists the changes by which customs, and systems of polity, would otherwise be insensibly adapted to the changes which, in spite of us, are constantly going on in the circumstances of society, persuades us, at the same time, that there is a virtue in those very incongruities, rendered every day more apparent, between antient arrangements and the state of things, wholly unforeseen by their authors, to which they are now applied. Thus, by a strange refinement of self-complacency, we ascribe to design, effects produced, not by human contrivance, but in spite of it, — nay, in counteraction of it, — and actually give our ancestors credit for having intended that the same plan should work for some ages in one direction, and then for so many more in the very opposite. It is not easy to imagine, that any thing but the most entire thoughtlessness could, for a moment, so far supersede the evidence of facts, and the authority of common sense, as to impose such dreams upon our belief.

The most noted example of this delusion meets us in the great question of Reform, in both its branches. Broach the subject of Parliamentary Reform, and you are sure to be met with an inflated panegyric of the present system of representation, — contrived by the wisdom of our forefathers to attain the utmost degree of perfection, and unite freedom, stability, and tranquillity. After an invective against reformers, as mere speculatists and theorists, a piece of the purest theory, the most unreal fancy-work, is presented, which you are desired to regard as the true mechanism of the constitution. It was fashioned, we are assured, upon the principle of *virtual* representation — or, at least, a mixture of real and virtual representation, for the purpose of forming an assemblage of persons of all classes, capacities, and endowments — some actually and publicly delegated, and others chosen by themselves or a few private nominators. The system of Rotten boroughs is thus recommended as the antient British constitution; — and whoever is foolish enough to doubt that our ancestors actually designed the stone

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\* Observations on the Criminal Law of England, as it relates to Capital Punishments; and on the Mode in which it is administered. By Sir Samuel Romilly. — Vol. xix. page 389. February 1812.



walls of Gatton and Old Sarum to return as many members as Yorkshire and Lancashire, must be accused of *innovation* ! Nor is this a statement merely held out *in terrorem* of rash speculators. We verily believe, that there are various worthy characters, in different parts of the country, who feel grateful to their forefathers for the wholesome and constitutional invention of *decayed* boroughs. In like manner, when you attack sinecures, or offices of which the progress of time has suppressed the duties, and augmented the emoluments, you are again charged with a newfangled disrespect for the wisdom of ages ; — as if, in the nature of things, a sinecure itself could possibly be other than an innovation ; — and as if our ancestors ever contemplated the uses ascribed to such places, any more than they foresaw the constitutional virtue of parliamentary elections by uninhabited towns. Thus, those changes which time is constantly making are overlooked, — except it be for the purpose of imputing the abuses which steal upon the system to wisdom and design ; and all attempts to accommodate ourselves to those unavoidable changes — that is, to keep things, upon the whole, in their antient and intended relation to each other — to maintain the order and arrangement contrived by our forefathers, are stigmatized as mere innovations.

The same delusion prevails, for want of but a very little reflexion, respecting several parts of our judicial system. It may safely be asserted, that no law was ever made in the world without the design of carrying it into effect ; and yet nothing is more common than to hear the praises of that wise *provision* (as it is called) of the English law, by which severe punishments are denounced, while mild ones only are inflicted. When the severer statutes were passed, the manners of the age were different. The changes which have gradually softened the character and habits of the people have made many of those laws a dead letter ; but we are taught to praise this discrepancy between the theory and practice of our jurisprudence, as if it were a positive good ; and to venerate it as if it had been the result of design in our ancestors, — who, we must therefore suppose, made laws for the purpose of breaking them, or with the refined intention that they should be operative for a certain time, and afterwards cease to be executed.

The beautiful and interesting tract, now before us, begins with an exposition of the error to which we are now alluding : and the best proof of the mischiefs with which it is pregnant is to be found in the fact, that the most cruel laws have actually been executed, down to a comparatively recent period ; and that, in general, the relaxation of the criminal law has only taken place to a considerable degree during the last half century. Even the sanguinary act of Elizabeth, Sir Samuel Romilly observes, which made it a capital offence for any person above the age of fourteen to associate for a month with gypsies, was executed in the reign of Charles the First ; — and Lord Hale mentions *thirteen* persons having, in his time, suffered death upon it at one assizes. Scanty and imperfect as are the materials for enabling us to trace the progress of the law, enough is known to convince us that no such refined plan can be discerned in former times, as that of leaving severe laws on the statute-book merely to terrify offenders, at the same time that they were relaxed in practice, or wholly suspended as to their execution. Sir John Fortescue tells us, that, in his day (in the reign of Henry VI.), more persons were executed in England for robberies in one year than in France in seven. Hollinshed states, that no less



than 72,000 persons died by the hands of the executioner during the reign of Henry VIII.—being at the rate of 2,000 every year. In Queen Elizabeth's time only 400 were executed yearly. But this relaxation, far from owing its origin to the Crown, draws forth the complaints of Lord Keeper Bacon, who tells the Parliament, that this ineffectual enforcement of the laws is not the default of her Majesty, 'who leaveth ' nothing undone meet for her to do for the execution of them.' In more modern times we have further details of this subject. Mr. Howard has published the Tables kept by Sir Stephen Janssen, by which it appears, that in seven years ending 1756, there were convicted capitally in London and Middlesex 428 — of whom about three-fourths, or 306, were executed; — that from 1756 to 1764, 236 were convicted, and 139, or above one half, executed; — from 1764 to 1772, 457 convicted, and 233, or little more than a half, executed. During the interval between 1772 and 1802, the accounts have not been published; but, from 1802 to 1808, the returns, printed by the Secretary of State's Office, afford very accurate information. In 1802, there were 97 convicted, and 10 executed — being about one tenth; and the average yearly number of convictions, for the whole seven succeeding years, being about 75, the average number of executions was about  $9\frac{1}{2}$ , or somewhat more than one eighth. Thus a change of a very material kind has taken place during the present reign. At the beginning of it there were more executions than pardons of persons capitally convicted. Now, there are about seven times as many pardoned as executed. Our author is far from censuring a change so full of humanity and wisdom; but he justly observes, that a stronger proof can hardly be required than these facts afford, 'that the present method of administering the law is not ' a system maturely formed and regularly established; but that it is a ' practice which has gradually prevailed, as the laws have become less ' adapted to the state of society in which we live.'

The speech, of which this pamphlet contains the substance, was delivered in the House of Commons, upon moving for leave to introduce bills to repeal the acts of 10 and 11 Will. III., 12 Ann, and 23 Geo. II., which make the crimes of stealing privately in a shop goods to the value of five shillings, or in a dwelling-house, or on board a vessel in a navigable river, property of the value of forty shillings, capital felonies. The history of the enforcement of the two former statutes affords the most striking illustration of the remarks with which we have been occupied. From Janssen's tables it appears, that in the period between 1749 and 1771, there were convicted for shoplifting and similar offences 240 persons; and of these 109 were executed. The convictions for the seven years ending 1809 do not appear in the returns published by the Secretary of State; but those returns show, that during that period, 1872 persons were committed to Newgate for privately stealing in shops and dwelling-houses; and that of these only *one* was executed. 'In how many instances,' observes the author, 'such crimes have been ' committed, and the persons robbed have not proceeded so far against ' the offenders as even to have them committed to prison: how many ' of the 1872 thus committed were discharged, because those who had ' suffered by their crimes would not appear to give evidence upon their ' trial: in how many cases the witnesses who did appear withheld the ' evidence that they could have given: and how numerous were the ' instances in which juries found a compassionate verdict, in direct ' contradiction to the plain facts clearly established before them, we

‘ do not know ; but that these evils must all have existed to a considerable degree, no man can doubt.’ p. 11.

It is however maintained, that whatever may be the history of this discrepancy between the letter and the execution of our criminal laws, or to what cause soever it may be ascribed, great good results from it ; and the defence of it is summed up by its advocates in a single sentence. They contend, that it economizes punishment, and enables judges to deter men from crimes by slighter actual inflictions — the more severe denunciations of the law itself being ‘ a terror to evil doers.’ Hence they maintain, that the law should be left as it is, for the sake of frightening the wicked ; but that the discretion of executing it or not in each instance should be vested in the judge.

This doctrine is sure to find supporters among various important classes ; — among the judges, whom it greatly flatters with ample, though it must be acknowledged most awful, discretionary powers ; — among the higher and older practitioners of the law, who feel with the Bench which they have a near prospect of ascending ; — among the large body of persons afraid of all change, through ignorance or prejudice, and scared by a mere name, inasmuch as the Parliament scarcely ever holds a sitting without making some alteration in the Law ; — and among refining and over-ingenious praisers of the existing establishments, who are gratified in discovering beauties and contrivances in the combined works of chance and time. For our own part, we can perceive no proposition more utterly untenable, if the subject be once examined ; and none so sure indeed to fall before the most superficial inquiry into the merits of the question.

In the first place, it must be remembered, that the very origin and use of laws is placed in principles wholly repugnant to this doctrine, — namely, the advantage of having *a fixed and known rule of conduct*, the same by whomsoever it is administered, and applicable to all cases ; so that those whom it is intended to regulate may be distinctly aware of what is required of them, and what penalty they incur for disobedience. If the plan contended for were defensible, how much better would it be to substitute judges for laws at once ; or, at any rate, to prohibit certain actions, but without affixing any penalties to the commission of them, and to leave the apportionment of these, in every case, at the discretion of the magistrate ! Indeed, as Sir Samuel Romilly has remarked, this arrangement would in many respects be much better. The discretion would then be exercised under a degree of responsibility which does not now attend it. ‘ If,’ says he, ‘ a man were found guilty of having pilfered in a dwelling-house property worth forty shillings, or in a shop that which was of the value only of five shillings, with no one circumstance whatever of aggravation, what judge, whom the constitution had entrusted with an absolute discretion, and had left answerable only to public opinion for the exercise of it, would venture, for such a transgression, to inflict the punishment of death ? But if, in such a case, the law having fixed the punishment, the judge merely suffers that law to take its course, and does not interpose to snatch the miserable victim from his fate, who has a right to complain ? A discretion to fix the doom of every convict, expressly given to the judges, would in all cases be most anxiously and scrupulously exercised ; but, appoint the punishment by law, and give the judge the power of remitting it, the case immediately assumes a very different complexion.’ In truth, the plan contended



for gives a large discretion where there should be as little as possible, — appoints it to be exercised under a narrow and doubtful responsibility, — and, without obtaining the superintendence of magistrates, checked by responsibility, sacrifices the certainty and applicability which should be the chief characteristics of a system of jurisprudence, and the attainment of which marks its approach towards perfection. To say that no laws can provide for all cases, and that, even in China, something must be left to the magistrate, is, in fact, saying nothing. It is surely a poor reason for courting imperfection, that absolute perfectness is above the reach of our utmost efforts.

Secondly, or rather, to particularize the manner in which this doctrine departs from the fundamental principles of all jurisprudence, let us only consider the uncertainty which it introduces into the administration of justice. The judges to whom such powers are confided have each their peculiar feelings and opinions, and prejudices and systems. One is more apt to be swayed by this favourable circumstance — another by that. What is a ground of mercy with one, may even operate unfavourably with another. A preconceived notion may regulate the whole practice of this magistrate, quite contrary to the system on which his brother judge acts; and thus, in order to learn how an offence shall be punished, — whether it be *in fact* a capital or a clergiable felony, — we must not look to the statute-book — but we must inquire geographically — we must ascertain the *venue*; and this will not serve us much, until the circuits of the judges are cast for the ensuing season, and we can learn by whom it is to be tried. On one line of country, where the same judges have constantly travelled, the law may pretty uniformly be different from that which prevails on the opposite coast; while, in other tracks, where the judges vary, the complexions of crimes will change from spring to fall, or even from town to town, as rotation or accident shall send one of the associated magistrates to deliver the gavel, and another to sit at *Nisi Prius*. We are here putting, not, it is to be hoped, the case which actually does occur, but that case towards which the administration of justice must be constantly tending under the influence of the doctrines in question; and which it must approach exactly in proportion to the efficacy of those doctrines. It is the case too, which those doctrines, if pushed the length of absolute consistency, could not fail to realize. That it is far from being altogether imaginary, let the following fact attest. We take it upon Sir Samuel Romilly's authority, with the most implicit reliance on his accuracy.

Not a great many years ago, upon the Norfolk circuit, a larceny was committed by two men in a poultry yard; but only one of them was apprehended: — the other, having escaped into a distant part of the country, had eluded all pursuit. At the next assizes the apprehended thief was tried and convicted; but Lord Loughborough before whom he was tried, thinking the offence a very slight one, sentenced him only to a few months' imprisonment. The news of this sentence having reached the accomplice in his retreat, he immediately returned, and surrendered himself to take his trial at the next assizes. The next assizes came; but, unfortunately for the prisoner, it was a different judge who presided; and, still more unfortunately, Mr. Justice Gould, who happened to be the judge, though of a very mild and indulgent disposition, had observed, or thought he had observed, that men who set out with stealing fowls generally end by committing the most atrocious crimes;



and, building a sort of system upon this observation, had made it a rule to punish this offence with very great severity; and he accordingly, to the great astonishment of this unhappy man, sentenced him to be transported. While one was taking his departure for Botany Bay, the term of the other's imprisonment had expired. 'What,' exclaims our author, 'must have been the notions which that little public, who witnessed and compared these two examples, formed of our system of criminal jurisprudence!'

Nor is this uncertainty and fluctuation only observable in the decisions of different judges; — the same judge acts differently at different times. It is a common remark, that at first a judge is more disposed to lenity than a larger experience of human depravity permits him to be: and where the temper of the times experiences great and sudden changes, we can hardly expect that those revolutions should not be felt on the Bench; although, doubtless they reach that seat of purity much more slowly and imperfectly in this country than elsewhere. The history of the Scotch Sedition trials may, however, furnish us with recollections of this kind. Many of our readers will recollect the punishments (known in the expressive language of Scotch law by the technical name of *arbitrary*) inflicted in the early periods of the French revolution. As late as 1797, a prisoner was sentenced to *fourteen years* transportation for a slight resistance to the militia law; — no copy, we believe, of the new act having been sent to the district where the disturbance broke out; and a militia being then, for the first time, known in any part of Scotland. Were the same offence tried now, by the same judges, we cannot help thinking that a far lighter punishment would be inflicted. Indeed, in the case alluded to, the sentence went so much against public feeling, that the jury acquitted, against evidence, the next person tried for a similar delinquency; and the severer sentence never was executed.

Again, the discretion contended for has a direct tendency to counteract the whole design of punishment, by preventing its operation as an example; and this tendency is twofold; both by concealing from the public the connexion between the offence and the punishment, or even by misleading the public with respect to the offence, and by diminishing the certainty of that connexion. This is by much the most important view of the matter, and requires to be more fully stated.

The only object which lawgivers propose to themselves in public inflictions of punishment is the effect which they may produce upon the spectators, and, through them, on the rest of the community. This indeed is the sole object of all punishments, except such as have in view the reformation of the offender; but it bears so great a proportion to the whole end of punishment, that we may here disregard the remaining object. How then is this purpose to be effected? Evidently by practically proving to the public this proposition — Who-soever commits this offence is sure of being thus punished. In this lesson two considerations are involved; and each person to whom we may teach it will assuredly entertain them both. He will ask himself — first, What is the offence? and, secondly, Is there a certainty of my being thus dealt with if I commit it? Now, that system of law is undoubtedly the most perfect, which best enables him to answer the first of these questions readily, and the second affirmatively; — which leaves the spectator of a punishment in the smallest doubt *wherefore* it is



inflicted, and *whether* or not it will be applied to his own case, should he commit the prohibited act.

But let us see how the system which we are examining enables the spectator to answer the first of these questions. He sees a man put to death and inquires the cause of it. He is told, that he had stolen five shillings' worth of goods privately in a shop. He exclaims perhaps against the cruelty of the punishment; and he receives for answer, 'That there were peculiar circumstances in the case, which made it proper to enforce the law; for that, in 999 instances in 1000, this crime is not punished capitally.' He is thus left in as complete ignorance as he was before he first put his question: he is not so much deceived, perhaps, as he would have been had he remained satisfied with the first answer he received; nor so completely misled as he would be by looking at the record of the Court where the culprit was tried, or the calendar of the prison where he was confined: for those documents tell a tale wholly wide of the truth, namely, that the punishment is inflicted for breaking a particular law. So far his inquiries have set him right. He has learnt that the sufferer has lost his life,—*not* because he offended against that law, but because there were some circumstances in his conduct or situation which he cannot discover. The punishment which he has seen inflicted, he therefore only knows to be the consequence of some unknown thing; and the lesson is entirely thrown away upon him.

But suppose our spectator is to be left in the belief that the law is really executed—that the culprit suffers death because he stole five shillings in a shop; for it is only upon this supposition that the law can be defended on its avowed principle, and that the sight of its execution can deter the public from violating it.—He will then put the second question, and ask, if he is sure to be so punished, should he himself commit shoplifting?—The sight before his eyes may no doubt awaken some apprehensions in his mind—it may lead him to believe that such *may* be his fate if he steals in a shop; but this is all. The question of probability remains unanswered; for the punishment of this one culprit does not necessarily prove that all who so offend shall so suffer. The answer to this question is to be gathered from various considerations, most of which probably pass through the spectator's mind during or soon after the sight of the punishment, and all of which, we may be well assured, are present to his contemplation, while revolving whether he shall commit an act of shoplifting or no. The first, in order of time as well as in weight, is the chance of escape or detection; but this we may here pass by, as it refers itself to those parts of the judicial system which provide for the securing of offenders, and which come under the extensive and important chapter of Police. But supposing he is so unlucky as to be taken, there are chances of escape still to be computed. The prosecutor may not come forward—evidence may not be forthcoming—juries may be unwilling to convict—judges may be loath to condemn—or mercy may, in the last resort, be extended. Now, in estimating the chance of escape, which each of these circumstances gives him, we cannot fail to observe, that the severity of the punishment goes directly to increase each separate chance.—Whether the practical reasoner, whose case we are figuring, will so argue, is of no consequence; he knows the fact, whatever may be the reason. The fact is, that persons are or may be more slow to



prosecute a shoplifter — witnesses more unwilling to come forward — juries more anxious to acquit — and judges more prone to reprieve or pardon — than if the punishment were less severe. This fact being known to him, he being sure, in short, that only one in nearly 1900 is executed for offences of this description, what can be so obvious as the conclusion, that the spectacle he has witnessed proves nothing, practically speaking, but the bad luck of the sufferer ;— and that it should no more influence his own conduct than if he never had beheld or heard of it? Such is the answer which he gives to the second question.

The existence of the law in the statute-book, or, as it is termed, the denunciation there promulgated, is of most feeble force, when put in the balance against such considerations as these. What avails it to tell men that they shall suffer death for certain acts, and to show them the contrary? — Will they believe the book rather than the fact?— Will the rogue appeal from the evidence of his senses to the text of a statute ; and, instead of looking at his comrades taken to prison for shoplifting, and afterwards let off, will he pore over the 10th and 11th of William III. to convince himself that it is a capital felony? Such fancies really suppose the persons who are the objects of criminal legislation, either to be a great deal more refined, or a great deal more dull and unthinking, than the rest of mankind.

Let us now turn to the administration of this law,— and we shall observe the fruits of the doctrine of discretion in another shape. Hitherto we have been considering chiefly its influence upon the public, to whom punishments are addressed. We shall now, in tracing its influence upon the mode of trial, see at the same time additional proofs of its interference with the instruction which punishments are meant to convey.

When a person is put upon his trial for a crime, it seems a very obvious proposition, that the truth or falsehood of the charge brought against him should be the point, and the only point, submitted to the consideration of the tribunal before which he is tried, — that the sentence, pronounced in the event of his conviction, should impose on him the penalty due to the offence of which he was accused,— and that the same tribunal which tries him should investigate the truth of the charge whereupon the penalty attaches. Yet, nothing can be more wide of the proceedings which, in fact, take place under the prevalence of the present system. The charge preferred in the indictment is frequently different from the charge inquired into by the Court. The culprit is accused of having stolen to the amount of five shillings in a shop ; and it is *possible* that nothing beyond this charge may come before the Court which is to try it. But it is also very possible that other matter may arise out of the judicial investigation ; and that this incidental matter may be so important in its influence upon the ultimate result of the trial, as nearly to supersede the original subject of inquiry. The prisoner may turn out to be a person of abandoned character, generally ; he may prove to have been frequently before tried for a similar offence ; he may have attempted to defend himself by suborning perjured evidence. If these things appear against him, the Court considers them ; although one of them — that one which most frequently occurs, is a specific crime known in law, and severely punishable. So, if a person is tried for robbery, the felonious and forcible taking is not the only matter inquired of : a question arises

often much more material to his fate, whether any act of violence was committed by him. Again, the punishment awarded by the sentence is not always that which the law attaches to the crime charged. When one has been suspected of murder, but the proof of this charge fails, he may be convicted of stealing forty shillings in a dwelling; and the offence which cannot be proved — nay, which cannot be mentioned on the trial — may decide the sentence. A person charged with privately stealing in a shop or dwelling, and nominally tried for that offence, but found, in the course of the trial, to be a man of general bad character, or to have set up a perjured *alibi* in his defence, is sentenced to death; not evidently because the law makes the crime charged a capital felony, (for this *denunciation* is never attended to in courts,) but because he has been found, or supposed, to be guilty of that for which he never was tried, and which no law ever made capital — of having a bad character, which is not punishable at all, — or of suborning perjury, which is punishable as a misdemeanour. Lastly, the tribunal which ought to try the truth of the whole charge is frequently not permitted to inquire into that part of it which is to regulate the final result. This requires a little more attention.

The jury, by our law, are the judges of the whole facts of the case; — the whole matter in issue is referred to them. The charge is stated in the indictment; and (at least in the great majority of cases) generally denied by the plea of the defendant. This affirmation, on the one hand, and denial on the other, of a proposition of fact, constitutes the issue which the jury are to try; and their verdict, or the opinion formed by them upon examining the evidence adduced on either side, is a decision of this question, or a determination affirming or denying the proposition submitted to them. If the indictment charges that the prisoner stole five shillings in a shop, the verdict of the jury can only determine whether or not he did steal to this amount in a shop; and the jury decide no other question. But the prisoner attempts an *alibi*; and the jury no doubt consider whether he has succeeded in proving it. If they say he is guilty of the charge in the indictment, they say by implication that he has not proved his *alibi*: but they say nothing more: they do not determine any thing with respect to the merits of this defence, except, in general, that it has failed. How it has failed they do not decide, nor have they any means of inquiring. It may be, that the prisoner has suborned false witnesses to swear he was absent from the spot where the crime was committed: or it may be, that his friends, unknown to him, have been guilty of this subornation: or it may be, that the witnesses were mistaken in the time, or in the person of the prisoner; and that he alone knew of their mistake. In the first case, he has suborned false witnesses: In the second, he has only stood by, and profited by the subornation of others: In the third, no perjury has been committed; but the prisoner has suffered a mistake to be committed beneficial to his defence, and innocent on the part of those who fell into it — has done something, in short, not very different in point of guilt from the mere assertion of his innocence, implied by pleading the general issue. Now, if the merits of this mode of defence are to regulate the sentence which follows on the verdict of guilty, it is manifest that the material question is not, whether the prisoner committed shoplifting? but, to which of the three cases just enumerated his defence belongs? Because, certainly, if it belongs to the last class, and probably if it belongs to the second, a



perfectly different decision will be come to from that which would follow if it belonged to the first. This, then, is *really* the question to be tried, in so far as the life of the prisoner is at stake. But this is a matter not directly in issue. It is a point into which the jury do not inquire, and upon which their verdict is quite silent. By whomsoever the most material question is tried, the Jury have nothing to do with it. They try something quite different, and comparatively unimportant. The fate of the prisoner depends upon others;—not merely his punishment, but the facts of his case are decided on by the Court. He cannot be said to be tried by a Jury.

But are we quite sure that he has been really tried at all;—that the facts most material to his case—those points, upon the truth or falsehood of which the result of the trial hinges, have been judicially inquired into by any part of the tribunal said to try the cause? We fear not. The verdict only answers the question raised in the pleadings; and the trial is only shaped with a view to answer this question. If the witnesses who swear to the *alibi* are mistaken, the affirmative is as much proved as if they were wilfully perjured; and therefore, no inquiry needs be instituted into the point—upon which, however, the sentence is to hinge—Whether there be perjury in the defence or not? It is clear that if no such inquiry is necessary, none will, in the majority of cases, be made; because the prosecutor only seeks to prove his case, that is, to bring evidence sufficient for substantiating the charge on the record. The court cannot call witnesses, and try the emerging point—the collateral issue, whether the *alibi* is founded in false swearing or not. There may be grounds of suspicion;—observations may occur;—the case may, of itself, furnish more or less of light into its origin:—but, how wide is this of the certainty required by our law? The prisoner is fenced round with forms, and protected from all unfavourable presumptions, upon the inquiry which professedly constitutes the subject of the trial, but the result of which is insignificant in determining his life or death;—while the question upon which every thing turns is to be determined without forms, or precautions, or safeguards of any kind—to be decided without deliberate examination, incidentally, and upon the evidence adduced in prosecuting a perfectly different inquiry. Let it also be remembered, that in confining ourselves to the illustration from the aggravation now alluded to, we are taking the case most favourable to the opposite argument, inasmuch as it involves an imputation at least of a known charge, which might be inquired of, and is not a vague indefinite aspersion, like that of general bad character, which could scarcely, in any shape, be judicially sifted.

Cases will probably occur to the legal reader, in which the result of a trial is affected by matters not put in issue; and others, where the result turns materially upon points which, though in issue, are nevertheless by no means the main object of the proceedings. Thus, where an action of damages is brought against a person for seducing another's wife, and the defence consists in an attempt to prove that the husband treated her brutally, prostituted her to others, or connived at her guilt;—or where a similar action is brought for seduction of a daughter, and the defence is to destroy the woman's character by attempting to prove prostitution;—the nature of these defences, if the proof of them fails, will be taken into the account in assessing the damages; and the plaintiff may be said to recover more for the loss of his wife's or daughter's society than he ought to do, because his own or his daughter's charac-



ter has been attacked in the course of the proceedings. In like manner, if an action is brought for slander or libel, and there is a plea of justification which fails, the damages will be greatly increased, although, strictly speaking, the Jury are only required to try the matters arising previous to bringing the action. But, in all these instances, the necessity of the case justifies, or rather requires, a departure from strict and rigorous principle. There is no other remedy — no other means of assessing the additional compensation which every one must admit that such defences render just and fitting to be given — at least no means which would not greatly endanger the free course of justice. The inconvenience would be extreme, of allowing separate actions to be brought for injuries sustained by the recriminations of the defendant's counsel; and there would be a manifest absurdity in making the statements set forth on a record, or sworn to (and not falsely sworn to) by witnesses, the subject-matter of new trials. Besides, in all these cases, no inconvenience arises from the incidental matters which are raised for consideration. When these matters are on record, by being pleaded specially, they are in every respect before the court, and notified to the opposite party, as much as if they formed the original ground of any proceeding; and even when they arise in the course of trial under the general issue, they are regularly examined and decided upon by the Jury, exactly as the rest of the case is.

Very different, however, is the evil of which we have been complaining in our criminal procedure; and it is an evil by no means justified by any necessity. The letter of the law says, shoplifting is a capital felony. The practice of the court says, it shall not be punished capitally, except it be accompanied with certain aggravations. Then, why not put those aggravations in issue, as well as the act of shoplifting itself? But is there any sense in thus confounding together distinct offences? Would it not be infinitely better to punish each appropriately and separately? Why not attach a certain penalty to shoplifting, and a certain penalty to subornation of perjury? If the former crime should be punished with transportation or imprisonment, and the latter with imprisonment or pillory — if such would infallibly be the sentences pronounced, where the same person committed the second offence in any other way but in the attempt to escape punishment for the first — why should we, in this one case, confound the two crimes together, and, out of a clergiable felony (as in practice it has become) and a misdemeanour, create, by some strange process of judicial compounding, something quite different from both, a capital felony? Nothing surely can be more rude or clumsy than such a contrivance — nothing more repugnant to all clear and distinct principle.

The object of those improvements, which Sir Samuel Romilly has laboured with such exemplary perseverance to effect in the criminal law, is to correct the inconsistencies, and remove the hurtful anomalies, which we have been endeavouring to describe. Finding that the statutes in question are not enforced so as to punish the crimes which they pretend to prohibit, but that they are the means of introducing such proceedings as we have just now contemplated; — observing, that all certainty of punishment is thus destroyed, and that a distinct knowledge of the practical nature of the law, as well as of the very meaning of the punishments inflicted, is withheld from the public, whom the law is made to guide, and the punishments are inflicted to instruct; — persuaded that, though seldom enforced, the denunciations of the statutes



in question are sufficient to deter persons from prosecuting, from giving evidence, and from convicting, though they only confound the notions of those whom they are intended to deter from committing the offences ; —this enlightened and virtuous legislator recommends the adoption of some more fixed and known method of punishing — of the very method which our own practice, as far as it consistently means any thing, points out for adoption. He says, repeal the capital part of these felonies, and leave it *certain*, that whoever is guilty of shoplifting, or stealing in a dwelling or upon a navigable river, shall be punished as guilty of a clergiable felony.

We have already illustrated the importance of making whatever punishment the law denounces as certain as the imperfections of police and jurisprudence will permit. That the certainty of the punishment is much more important in preventing crimes than its severity seems a maxim now universally agreed upon. ‘ If it were possible ’ (observes our author) ‘ that punishment, as the consequence of guilt, could be reduced to an absolute certainty, a very slight penalty would be sufficient to prevent almost every species of crime, except those which arise from sudden gusts of ungovernable passion. If the restoration of the property stolen, and only a few weeks’ or even a few days’ imprisonment, were the *unavoidable* consequence of theft, no theft would ever be committed. No man would steal what he was sure that he could not keep ;—no man would, by a voluntary act, deprive himself of his liberty, though but for a few days. It is the desire of a supposed good, which is the incentive to every crime. No crime, therefore, could exist, if it were infallibly certain that not good, but evil, must follow, as an unavoidable consequence to the person who committed it. This absolute certainty, however,’ (he continues) ‘ is unattainable, where facts are to be ascertained by human testimony, and questions are to be decided by human judgments. All that can be done is, by a vigilant police, by rational rules of evidence, by clear laws, and by punishments proportioned to the guilt of the offender, to approach as nearly to that certainty as human imperfection will admit.’

How far these sound and unquestionable principles are violated by the present mode of proceeding, we have already in part explained. But a few more observations may be subjoined upon the same important topic. Those who find that the statutes in question are in fact scarcely ever executed, may conjecture that the knowledge of this will operate upon prosecutors, witnesses, and juries, as well as on culprits ; and remove the scruples from the former, as well as the fears from the latter ;—a plausible doubt to the first view, but very little founded in the nature of the thing. For, when a man is balancing with himself whether he shall commit an offence, tempted by the desire of attaining some favourite object, his disposition leans towards gratifying this desire ; and he adventures in what he accustoms himself (to use our author’s apposite expression) to regard as the lottery of justice, provided the chances of escape are considerable. But it is otherwise when a man, under the influence of no such passions, knowing that the culprit is actually taken, weighs with himself whether he shall do an act, the consequence of which will be — not indeed the certain, or even the probable — but the possible death of a fellow creature ; and at any rate the delivering him over to others, in whose discretion it must now be, whether death shall be inflicted or not. ‘ I have had five



‘ shillings stolen from me,’ he says, ‘ by this man. If I come forward against him, he will be convicted; and could I be sure of his only suffering imprisonment, or even transportation, it might be well. But how do I know that his character may not turn out a bad one — that he may not set up a perjured defence — or that, if convicted of the simple offence which he has committed against me, mercy may not be refused? I will incur no such risk; — I will never have to reproach myself with having *exposed* a man to be hanged for stealing a crown; — I will not expose myself to the risk of his actually being hanged for such a theft.’ How far such reasoning is well founded, we do not inquire: that it influences men’s minds, and directs their conduct, is matter of fact. The same person whom we have been supposing robbed of five shillings, has seen a fellow-creature murdered; he knows that the evidence which he gives must send the murderer to the gallows; but he feels no such scruples as before: — his feelings all go along with his duty in this case; and he hesitates not a moment what course to take. True it is, that, strictly speaking, he has no right to draw such distinctions; he is assuming a sort of legislative authority; and taking considerations into his mind, which any Judge, who might accidentally discover his process of reasoning, or rather of feeling, would not fail severely, perhaps justly, to reprove. But until all men shall be so fashioned as to think and feel in their private hours, and in the secret recesses of their hearts, according to the very letter of the law, and shall in every respect act as a legislator may desire, he will do well to adapt his contrivances to their natures; and, if he would not be disappointed, he had best lay his account with their following their own inclinations in all cases where he cannot prevent them.\*

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#### ON CODIFICATION.†

IN spite of the panegyrics which have been so often pronounced upon our laws, and upon the administration of them, no person who is practically acquainted with our English system of jurisprudence, and who will speak of it ingenuously, can deny that it is attended with great and numerous mischiefs, which are every day becoming more intolerable. The difficulties, the expense, the tedious length of litigations, the uncertainty of their issue, and, in many cases, the lamentable delay of decision, are but too well known to the great number to whom all this is a source of profit, and to the far greater number on whom it brings down calamity and ruin. What are the causes of these evils it would be rash in any one to pronounce before he had fully and anxiously examined every part of the subject. They are evils, however, of such magnitude, that every discussion which affords a chance of leading us to the discovery of their causes, and consequently to the

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\* This article concludes with a just and well-written tribute of praise to the humane exertions of Sir Samuel Romilly as a reformer of the Criminal Code of England, and an enumeration of the Bills which, at different periods, he brought forward in the House of Commons.

† Bentham on Codification.—Vol. xxix. Page 222. November, 1817. The introductory observations to this Essay on the character and merits of Mr. Bentham will be found in the second volume of this work, p. 24.

providing against them an effectual remedy, must be regarded as highly beneficial. Considered in this point of view, the question, whether the common or unwritten law be better calculated than a written code, to provide effectually for the security of men's persons and properties, in a state as far advanced as England is in civilization and refinement, is one of very great public interest; and we shall therefore make no apology for proceeding to the discussion of it, or for mixing arguments of our own with those, which either we have found in the work before us, or have been suggested by its perusal.

The first step to be taken in this inquiry is to ascertain the nature of the unwritten law by which England is at this moment governed. We are not then to understand that the rules by which property is to be distributed, and the conduct of men to be regulated, really exist only in oral tradition, and the imperfect recollections of individuals. What is called with us unwritten law is in truth to be collected from a great number of written records and printed volumes; and, according to old Fortescue and to Blackstone, it is only by a twenty years' study of them that a perfect knowledge of it can be gained. It is by reading, and by reading only, that the *lex non scripta*, as well as the statute law, is to be acquired; but, in the one case, we find the law expressing its commands in direct and positive terms — while, in the other, we can arrive at a knowledge of it only through its interpreters and oracles — the Judges.

The common law is to be collected, not from the plain text of a comprehensive ordinance, which it is open to all men to consult, but from the decisions of Courts of Justice, pronounced in a great variety of cases, and which have disclosed small portions of it from time to time, just as the miscellaneous transactions of men in a state of society may have chanced to require, or give occasion for its promulgation.

Of a law so constituted, it must necessarily happen that a large portion must always remain unpublished. The occasion for declaring it never having occurred, it must rest (as all that is now published once did) in a latent state, till some event happens to call it into use and into notice. Of a statute law we know with certainty the whole extent, — and we can at once discern what it has not, as well as what it has provided; but under the common law there is no case unprovided for, — though there be many of which it is extremely difficult, and indeed impossible, to say beforehand what the provision is. For the cases on which no decision has yet been pronounced, an unknown law exists, which must be brought to light whenever the courts are called upon for their decision. For all practical purposes, a law so unknown is the same as a law not in existence: to declare, is substantially to enact it; and the Judges, though called only expounders of law, are in reality legislators. Of what importance is it, that, by a legal fiction, the law is supposed to have had pre-existence, since, being unknown till it was promulgated by some tribunal, it was not possible that men could have conformed to it as the rule of their conduct? — and yet, in this very circumstance, have some most eminent lawyers discovered a superiority in the common law over all written statutes. Lord Mansfield, for example, when pleading as an advocate at the Bar, is reported to have thus expressed himself: ‘Cases of law depend upon occasions which give rise to them. All occasions do not arise at once. A statute very seldom can take in all cases; therefore the common law,



‘ that works itself pure by rules drawn from the fountains of justice, ‘ is superior to an act of Parliament.’ (*Atkyn’s Reports*, vol. i. 32. 33.)

The law, thus unknown to others till it was promulgated in some decision, can hardly be said to have been previously known even to the judges themselves. When some new question is brought before them to decide, those oracles of the law do not, like the oracles of old, (the supposed sources of all wisdom and knowledge,) immediately pronounce their authoritative and unerring responses; neither do they retire to their chambers, as if to consult some code of which they are the sole possessors, and then reveal in public, to the contending parties, the text which they have discovered. They profess themselves unqualified immediately to decide; they require to be themselves informed: it is necessary that they should hear, and compare, and examine, and reason, and be assisted by the arguments of others, before they are prepared to pronounce what the law has declared. They even call upon the litigant parties themselves to state, by their advocates, what they conceive the law to be, and to support their statements by reasoning and authorities, and analogous decisions; and it sometimes happens that even with all this assistance, the Judges find themselves unable to declare what the law is, and require the assistance of a second argument, and by other counsel.

That all these deliberations, and this laborious process, should be necessary, will not appear surprising to those who reflect what is the nature of the operation to be performed when we would discover what the common law is upon some point upon which it has never yet been declared. Dr. Paley calls it, and not unaptly, a competition of opposite analogies. ‘ When a point of law,’ he says \*, ‘ has been once adjudged, ‘ neither that question, nor any which completely, and in all its circumstances, corresponds with *that*, can be brought a second time into ‘ dispute; but questions arise which resemble this only indirectly, and ‘ in part, and in certain views and circumstances, and which may seem ‘ to bear an equal or a greater affinity to other adjudged cases;— ‘ questions which can be brought within any fixed rule only by ‘ analogy, and which hold an analogy by relation to different rules. It ‘ is by the urging of the different analogies that the contention of the ‘ Bar is carried on; and it is in the comparison, adjustment, and reconciliation of them with one another, in the discerning of such distinctions, and in the framing of such a determination, as may either save ‘ the various rules alleged in the cause, or, if that be impossible, may ‘ give up the weaker analogy to the stronger, that the sagacity and ‘ wisdom of the court are seen and exercised.’† The common law

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\* Paley, *Mor. Phil.* vol. ii. p. 259.

† It is very extraordinary, that with such accurate notions as Paley appears to have had on this subject, he should not have seen, that this ‘ source of ‘ disputation,’ as he calls it, was peculiar to an unwritten law. He strangely supposes it to belong equally to the statute as to the common law. ‘ After ‘ all the certainty and rest,’ he says, ‘ that can be given to points of law, either ‘ by the interposition of the legislature, or the authority of precedents, one ‘ principal source of disputation, and into which, indeed, the greater part of ‘ legal controversies may be resolved, will remain still, namely, the competition ‘ of opposite analogies.’ Difficulties undoubtedly often arise in the application of written statutes, and Paley himself has well pointed them out; but they are quite of a different nature from those which attend the administration of the common law, and certainly cannot be surmounted by that competition of opposite analogies which he mentions.



was covered with a veil of antiquity; — that veil has been, by the decisions of the judges, in part removed: what it is that still remains concealed from the public view, no one can with certainty tell. Nothing is left us but to conjecture, and our conjectures are wholly founded upon those various analogies of which Paley speaks. The best supported of those analogies is that which generally prevails; it is acknowledged from that moment as the law of the land, and as a point from which other analogies may in future be drawn.

It is not a little amusing to hear what Blackstone (who is, upon almost all occasions, the apologist for what he finds established,) says of this unwritten law. ‘The moment,’ these are his words, ‘that a decision has been pronounced, that which was before uncertain, and perhaps indifferent, becomes a permanent rule, which it is not in the breast of any subsequent judge to alter or vary from;’ and he accordingly tells us, that ‘it is an established rule to abide by former precedents, where the same point comes again in litigation.’\* How, indeed, should it be otherwise? Where the authority of a written text cannot be referred to, it is from decisions alone that the law can be collected; and it should seem to be as necessary for those who administer the law, to follow those decisions implicitly, as to obey the plain injunctions of a statute; and yet, according to Blackstone, ‘this rule admits of exception, where the former determination is most evidently contrary to reason, and much more, if it be clearly contrary to the Divine law.’ Here are other sources, then, from which we are to collect the unwritten law — namely, the dictates of reason, and the declared will of God. But, unfortunately, the dictates of reason, which are at all times sufficiently uncertain as a positive rule of conduct, are rendered much more uncertain by the learned Commentator’s explanation. For, in many cases, he tells us — the reason of a law cannot be discovered by any sagacity, and yet must be presumed to exist; and he proceeds to lay it down, as a maxim of English Jurisprudence, that it is only where a precedent, or the rule which it has established, is flatly absurd or unjust, that its authority may be disregarded.† The Cambridge professor, who has commented upon the Commentaries, controverts even this position, and most satisfactorily proves, that absolute demonstration of the absurdity and injustice of a rule is not alone sufficient, at the common law, to detract from its binding force. By the law of England, till the legislature interposed to alter it, every statute had a retrospective operation to the first day of the Sessions in which it passed; and acts, therefore, which were done after the Sessions had commenced, and before the law was made, fell under the animadversion of its *ex post facto* enactments, and subjected the author of them to the penalty of having disregarded prohibitions which had no existence. A stronger instance to prove that absurdity and injustice are not incompatible with a rule of the common law could not have been adduced.

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\* Comm. vol. i. p. 69.

† ‘The particular reason of every rule in the law cannot, at this distance of time, be always precisely assigned; but it is sufficient that there be nothing in the rule flatly contradictory to reason, and then the law will presume it to be well founded.’ — ‘The doctrine of the law is, that precedents and rules must be followed, unless flatly absurd or unjust; for though their reason be not obvious at first view, yet we owe such a deference to former times, as not to suppose that they acted *wholly* without consideration.’ Comm. vol. i. p. 70.



This source of uncertainty becomes the more formidable, from the consideration that the judges are themselves to determine, whether the former decision was or was not contrary to reason ; or, in other words, whether it shall or shall not be binding on them. It must always therefore be in the power of the judge, notwithstanding the oath which we are told he takes, ‘ to determine, not according to his own private judgment, but according to the known laws and customs of the land.’ To relieve himself from embarrassing precedents which may be cited, he has only to declare, that those precedents are contrary to reason, and were therefore themselves deviations from the common law, and to profess, in the language of Mr. Justice Blackstone, that he is ‘ not making a new law, but vindicating the old from misrepresentation.’ This doctrine, that former determinations are of authority only as they are consistent with reason, affords, in the opinion of the same writer, good ground for those high-strained panegyrics of the law which are so often pronounced by our judges. ‘ Hence,’ to use his own words, ‘ it is, that our lawyers with justice tell us, that the law is the perfection of reason, and that what is not reason is not law.’ An aphorism which is, however, involved in such a cloud of mystery, that we are at the same time told, that not even the judges can, upon all occasions, discover in what that reason, the test of genuine law, consists ; and that they are bound to hold every thing which they find decided by their predecessors to be law, and consequently the perfection of reason, unless it be ‘ flatly absurd or unjust.’ In contemplation of law, there is no medium, it seems, between the perfection of reason and gross absurdity.

Not to deceive ourselves, however, we ought to understand, that this supposed bringing to light of the antient law, which had been for ages unrevealed, is at best but a fiction. The law so declared in many cases had no existence till the declaration was made, although the judges do not ‘ pretend to make new law,’ but ‘ to vindicate the old from misrepresentation.’ It has already been observed, that where the whole law is embodied in written statutes, cases may occur on which the law is silent ; but where an unwritten law prevails, this can never happen. That the law is not already declared is only because the particular occasion for declaring it never before occurred. The Judges, being unable therefore to predicate of any case that it is one which the law has not foreseen, are under the necessity, with the aid of Dr. Paley’s Analogies, of supplying what is wanting, and of *discovering* the antient law which is supposed to have been once expressed in statutes that have long since mouldered away, or to have been pronounced in judgments of which no record has been preserved. In name, this differs from making laws,—but it is only in name. Whether the chasm has been made by the ravages of time, or was left in the *original* fabric of our law, it is precisely by the same process that it must be filled up. The same recourse must be had to Paley’s Analogies, whether the object of the Judges be to conjecture what the lost law must have been, or to make a new law, which will best quadrate and harmonize with the relics of the old.

The ingenuity to be exercised on these occasions is not very unlike that of the statuary, who is called upon to restore the deficient parts of some mutilated remnant of antiquity. From that which remains, he conjectures what, in its original perfection, must have been the entire statue ; and he supplies such a feature or a limb as will give its proper

form and attitude to the whole. In the same manner, the lawyer, having made himself master of all that remains of the antient common law — having imbibed its spirit, and studied its principles — endeavours to restore what is wanting, in such a mode as may best symmetrize and combine itself with the rest. In this respect, however, the Artist and the Jurist differ ; the former gives the result of his labours for what it really is, a humble attempt to supply a loss which he acknowledges to be irreparable ; while the magisterial lawyer does not hesitate to publish his ingenious conjectures as the genuine remains of antiquity. In another respect, too, the comparison fails. With our restoring Jurists, it is often not the best but the first artist that tries his hand, whose essay, however crude and imperfect, must be united for ever to the beautiful original to which it has been once attached ; whereas, in the Arts, the first awkward attempt at restoration will give place to the happier efforts of a more skilful statuary.

Considering, then, these judicial declarations or expositions of the law, as that which, in every new case, they to all practical purposes really are, the making of law ; let us next consider what is the peculiar character of this species of legislation. The first thing to be observed upon it is, that laws so made are necessarily *ex post facto* laws. The rule is not laid down till after the event which calls for the application of it has happened. Though new in *fact*, yet being of the greatest antiquity in *theory*, it has necessarily a retrospective operation, and governs all past as well as all future transactions. Property, which had been purchased or transmitted by descent to the present possessor of it, is discovered by the newly-declared law to belong to others ; actions, which were thought to be innocent, turn out to be criminal ; and there is no security for men's possessions, their persons, or their liberties.

It is another objection to this mode of legislation, that the legislators, being ostensibly called on to discharge very different duties, are forbidden to entertain any of the considerations which ought most to influence the judgments of those who are avowedly employed in making laws. What will most tend to promote the general good, or what is best adapted to the present habits and modes of thinking of mankind, the judicial legislator is bound to disregard. He is to consider, not what would be the best law on any given subject that could now be made, but what law was most likely to have been made upon it at the remote period when the common law is supposed to have had its origin. All his researches tend to discover, not how the evil which has occurred may best be remedied, but in what manner it is probable that, in a very different state of society, the matter would have been ordered. The reasons upon which he proceeds are not reasons of utility or of general expediency, but reasons of analogy, or, as they are properly termed, technical reasons. Thus, when it was first decided that a man who had killed himself, and of whose crime it was deemed no small aggravation that he had left destitute a wife whom he was solemnly bound to protect and to provide for,—when, for such an offence, it was first decided, that, by the common law, there was a forfeiture to the Crown, not only of all the chattels which the offender possessed, but even of leasehold estates which he held jointly with that wife, or which he possessed in her right, it was on mere technical arguments, which set all reasons and common sense at defiance, that such a decision proceeded.

To take another instance. A man is killed. The person by whose



hand he fell is tried for murder, and is acquitted, or having been convicted, receives a pardon. The *father* of the deceased, imputing partiality to the Jury, or complaining of favour unjustifiably shown by the Crown, is desirous of avenging his son's blood, and of bringing the case before another Jury, but in such a form as shall wrest from the King his prerogative of protecting enormous guilt. Accordingly, he brings his appeal of death; and the question is, whether, at his suit, such a proceeding will lie. It is now settled law, that it will not. But let us transport ourselves back to the time when this common-law question came first under discussion. If a new law were to be made upon such a subject, the questions to be examined would be, whether it were expedient that the punishment of public crimes should depend on the pleasure of private individuals; whether a man, once tried and acquitted, ought to be put a second time in peril of his life; whether the prerogative of pardoning should be fettered with any restraints, and, if it should, whether such restraints could be safely allowed to fall into the hands of any obscure and perhaps worthless individual. All this might be matter of examination and of doubt; but, upon one point, all voices would concur, namely, that if such powers were to be confided to those who stood in some near relation to the deceased, there was no one to whom they ought sooner to be entrusted than to a parent deprived by murder of his child. Considerations, however, of expediency, or of public advantage, when the question is one of common law, are those which are last to be entertained. It is technically that we are to look at the subject. Though the question relate to murder, it is artificial, not natural relations, that we are to regard. And accordingly, we find it settled, that a *cousin*, though he will probably use this process merely as a means of extorting money, may bring his appeal, provided he be the heir-at-law; but that no *father* can have recourse to it, because, by the positive law of England, a parent cannot be heir to his child.

To give the unlearned reader some notion how uncertain the common law is, and how large a portion of it yet remains to be declared, we would refer him to the following passage upon the subject of these appeals, in Serjeant Hawkins's Treatise on the Pleas of the Crown. 'If an appeal,' he says, 'be once commenced by an heir who dies hanging the suit, it seems to be agreed by *almost* all the books, that no other heir can afterwards proceed in such appeal, or commence a new one. But some have holden that if the first heir die within the year and day without commencing an appeal, the next heir may bring one. But *this is made a doubt by others*; and the generality of the books seem to favour the contrary opinion; yet it is *holden* by Sir Matthew Hale, and some others, that if the first heir get judgment in an appeal of death, and die, his heir may sue execution; but this is *doubted* of by Sir William Staunford, and seems contrary to many of the old books, and not easily reconcileable with the reason of the cases above mentioned. But *whether*, in this case, the Court may not award execution, either *ex officio* or at the demand of the King, may deserve to be considered. Also, if a person who is killed have no wife at the time of death, and no issue but daughters, and all those daughters die within the year and day, it may reasonably be argued, that the heir-male may have an appeal, because the right of bringing one never vested in any other before. But, *finding this case in none of the books*, I shall leave it to be more fully considered



‘ by others. \* All these doubts and difficulties, and conjectures and uncertainties, relate, it is true, to a branch of the law which has seldom, in the course of the last three centuries, been executed; but it should be remembered, that it is a law which it is in the power of private individuals to call at any time into activity; that accident alone is to determine on whom the power of reviving it shall be cast; and that, when called into action, it is men’s lives that it will dispose of. For the cases thus left unprovided for, or, which is the same thing, which are so provided for that the most learned lawyers cannot say what the provision is, some law ought surely to be made. The matter being involved in such obscurity that one of the first criminal lawyers that the country has produced can only state what the inconsistent authorities are, can venture no further than to advance doubts and probabilities, and to suggest topics for argument, it must be incumbent on the Legislature to declare what the law shall be in future, and to prevent the justice of the country from being hereafter so much dishonoured as it surely must be if our tribunals are to be assembled to decide whether an individual shall suffer death for a murder imputed to him, upon no consideration of any thing that has relation to his guilt or innocence, to the justice of a discussion already commenced upon his case, or to the prudence or the profligacy with which the Crown’s prerogative of pardoning may have been exercised, but upon legal subtleties applicable only to the descent of real property, upon an examination of antient records, upon a comparison of the weight that is due to the opinions of Sir Matthew Hale and of Sir William Staunford, and upon some law, which no man, till the case occurred, could venture to state had any existence, and which is brought to light only by antiquarian research, and forensic acuteness, amongst clashing and inconsistent authorities, out of a mass of materials under which it had remained buried for centuries past.

Not only is the Judge, who, at the very moment when he is making law, is bound to profess that it is his province only to declare it; not only is he thus confined to technical doctrines and to artificial reasoning,—he is further compelled to take the narrowest view possible of every subject on which he legislates. The law he makes is necessarily restricted to the particular case which gives occasion for its promulgation. Often when he is providing for that particular case, or, according to the fiction of our Constitution, is declaring how the antient and long-forgotten law has provided for it, he represents to himself other cases which probably may arise, though there is no record of their ever having yet occurred, which will as urgently call for a remedy as that which it is his duty to decide. It would be a prudent part to provide, by one comprehensive rule, as well for these possible events, as for the actual case that is in dispute, and, while terminating the existing litigation, to obviate and prevent all future contests. This, however, is to the judicial legislator strictly forbidden: and if, in illustrating the grounds of his judgment, he adverts to other and analogous cases, and presumes to anticipate how they should be decided, he is considered as exceeding his province; and the opinions thus delivered are treated by succeeding judges as extra-judicial, and as entitled to no authority.

A still further evil inherent in this system is, that the duty of legislation must often be cast on those who are ill qualified to legislate upon

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\* Hawk. P. C. book ii. ch. 23. § 41.



the particular subject which accident may allot to them. In a mass of jurisprudence so extensive, and consisting of such a variety of parts as that which at the present day prevails in England, it must necessarily happen, that even the most learned and experienced lawyers will not have had occasions, in the course of the longest study and practice, to make themselves complete masters of every portion of it. It is usually to some one or more particular branches that they have severally directed their researches. One man is distinguished as deeply learned in the law of real property; another in what relates to tithes and the rights and possessions of the church; a third is mostly skilled in criminal law; a fourth in the forms of actions and the rules of procedure: and accordingly, when it is important to private clients to be informed of the law, they consult the most eminent jurists only upon those subjects with which they are known to be most conversant. If the task of compiling a complete code of laws were now to be undertaken, the subject would probably be divided into its different branches, and each would be assigned to those who were understood to have devoted to it almost exclusively their attention and their care. But in legislation, by means of judicial decisions, it is chance, not the qualifications of the legislator, which determines upon what he shall legislate. In theory he is alike qualified for all subjects. He is presumed to be master of all branches of the law, and to be capable, whatever may be the matters that are brought before him, and in whatever order, accident, or the humour of litigant parties shall present them to his view, of declaring what the law is which applies to them.

Another objection to this mode of legislation, and which in a free state cannot surely be of little account, is, that the People have no control over those by whom the laws are made. The magistrates, filling the high stations to which is attached the most important duty, and the most dangerous power that men in a state of society can be invested with, are nominated by the sole pleasure of the Crown; and during the long period when the largest portion of the common law by which we are now governed was produced, they were also, if the laws which they made were unpalatable to the Crown, removable at its pleasure.

It is supposed to be a maxim of our Constitution, that we are to be governed by no laws but those to which the people have, by their representatives, given their consent. No man, however, will assert, that the consent of the people was ever obtained to the common law, which forms so large a portion of our jurisprudence. Our legislators here have been, not the representatives of our choice, but the servile instruments of our monarchs—at one time, the great delinquents who presided in our tribunals in the days of Richard II.—and at another, the corrupt judges of the Jameses and the Charleses, who suffered themselves to be practised upon by the king's law officers, and met in secret cabals to decide the fate of the victims of the Crown, before any accusation was openly preferred against them;—the men who, by their abject obedience to the dictates of their master, when they were his hired advocates, and by the keenness with which, as his blood-hounds, they hunted down the prey he had marked out, had sufficiently proved how well disposed they were to do him good service in the high and sacred office of a judge.

Such are among the principal objections to this species of legislation. But it is to be observed, that while this is going on, there is amongst us a legislation of another kind, proceeding with equal activity—that of

the avowed and acknowledged legislature which every year sends into the world a cumbrous Collection of new Statutes. Between these two legislatures there is no unity of design ; their works are as unlike, as the characters of the authors and their modes of legislation. Of a law proceeding from such sources, it is not surprising that it is found to be uncertain, intricate, obscure, perplexed, inconsistent, full of refinement and subtlety, and subject to continual fluctuations. The law which is every term discovered and brought to light by the Judges seems to vie in extent with that which is made by the Parliament ; and the lawyer's library is every year enlarged by one bulky volume of statutes, and by several volumes of reported decisions. The new statutes of each year are swoln out to a bulk surpassing that of the year which preceded it ; and every fresh term seems to be prolific of more judicial reports than the term that went before it. So considerable are the changes and augmentations which are thus continually taking place in English law, that the treatises, essays, and compilations which have been composed on various legal subjects, require to be from time to time renewed, that they may not mislead those who consult them ; and upon many heads, an old law treatise is of as little use as an almanack for a year that has expired. The duties of a justice of the peace were formerly comprised in one small duodecimo volume ; they are now to be searched for in five large octavos, containing altogether 4,400 pages. To this size Burn's Justice has been gradually expanded, in the course of the twenty-two editions which, during a period of sixty years, it has passed through. So many new reports have been printed, and so many new statutes made, that, as the publisher tells us in the advertisement to the 15th edition, ' every new edition, in order to keep pace with the law, is in effect a new book.\*

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\* Sir James Mackintosh makes honourable mention of this article in his Dissertation on the Progress of Ethical Philosophy, prefixed to the Encyclopedia Britannica, page 378. ' It need no longer be concealed,' says he, ' that it was contributed by Sir Samuel Romilly. The steadiness with which he held the balance in weighing the merits of his friend against his unfortunate defects is an example of his union of the most commanding moral principle with a sensibility so warm, that, if it had been released from that stern authority, it would not so long have endured the coarseness and roughness of human concerns. From the tenderness of his feelings, and from an anger never roused but by cruelty and baseness, as much as from his genius and pure taste, sprung that original and characteristic eloquence which was the hope of the afflicted as well as the terror of the oppressor. If his oratory had not flowed so largely from this moral source, which years do not dry up, he would not perhaps have been the only example of an orator, who, after the age of sixty, daily increased in polish, in vigour, and in splendour.'



## THE USURY LAWS.\*

It is curious to consider by what accidents the prejudices that gave rise to the Usury Laws have maintained their ground, amidst the ruins of the mercantile system to which they naturally belong. Long after every thinking man had been convinced, that the most entire freedom in commercial matters was both the right of the subject and the interest of the community, and that every interference with the private trade of individuals was not only a grievous restraint upon natural liberty, but positively detrimental to public prosperity, all reasoners seemed to agree in excepting from the sentence of condemnation thus passed upon such laws the very class of enactments which most plainly sinned against the principles both of civil liberty and true policy. This anomaly is only to be accounted for by the peculiar nature of the prejudices in which the Usury Laws had their foundation; but an unlucky opinion in their favour, delivered by Dr. Smith, in the work which operated so powerfully towards dispelling the other errors of the mercantile theory, had a very remarkable effect in keeping alive those prejudices; and it is certain, that Mr. Bentham was the first writer who openly and systematically attacked them. It is equally true, that he completed the work which he began: for, since the publication of his tract, no one has ever been hardy enough to deny, that he had conclusively demonstrated the proposition which forms its subject. To endeavour to add any thing to his reasonings would be a vain attempt; but we shall exhibit the substance of them in a form somewhat abridged, rather in the hope of their meeting the eyes of many who might not possess the original work, than with the least doubt as to its superior efficacy in producing speedy conviction in all who may peruse it.

It is a just observation of Lord Coke, that to trace the source of an error is to refute it: and fortunately there seems no difficulty in accounting for the origin of those prejudices in which the Usury Laws have their foundation. Mr. Bentham ascribes, we think, rather too much to religious bigotry, in treating this part of the subject. He observes, that the practice of self-denial came very early to be substituted for active virtue; and as the greater the temptation the greater the merit, much virtue was held to lie in refusing to one's self the means of making money,—at all times the favourite pursuit of mankind. Hence, he says, the obvious method of making wealth productive, by lending it for a profit, was proscribed as an illegal gratification; and besides, as the Jews dealt largely in this practice, the Christians, ever anxious to avoid their customs, deemed it peculiarly sinful. The authority of Aristotle, who reprobates usury on the ground that ‘money is in its nature barren,’ was a strong support of these views, in an age which bowed to the *dictum* of that philosopher in every thing, save matters immediately connected with Pagan faith. Our author also remarks, that the natural antipathy of the spendthrift towards the saving man, arising from the envy with which he regards

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\* Defence of Usury, and Protest against Law Taxes. By Jeremy Bentham, Esq., of Lincoln's Inn.—Vol. xxvii. page 339. December, 1816.



him, must have operated in the same direction. That all these causes have contributed materially to produce the prevailing notions against usury, there can be no doubt. But we think he has, contrary to the usual accuracy of his analysis, overlooked one of the most powerful, — we mean, the feeling excited against a rich man, as the lender must always be compared with the borrower, — and in favour of a poor one, by the very circumstance of the former making the latter pay for help, according to his necessities, and reaping a profit without any labour or even trouble of his own. It is true, that many other classes are exactly in the same situation, as far as the circumstance of gaining by another's working goes; but in no case does the contest between distress and avarice, or let us only say, a calculating and money-getting spirit, so frequently become apparent; and besides, other lenders, as land-owners, have always formed such a powerful body, that no universal prejudice could easily take root against them. Nor is it any answer to this view of the subject, to say, that a person in no distressed state may borrow, upon a calculation of gain, from another, upon the whole no richer than himself; for the prejudice in question took its rise, when almost all loans were from the rich to the poor, to relieve their distresses; and the prevalence of hard bargains, driven under such circumstances, obtained for the dealers in money a bad name that they never yet have lost. Perhaps the way in which religious bigotry has chiefly influenced the reputation of this class of men, in modern times, has been from the circumstance of the money-trade being principally in the hands of the Jews; although, undoubtedly, this monopoly has been secured to them, as it was originally acquired, by the prevalence of the prejudices themselves. But the natural question is, How the laws against usury, that is, the restraints upon the terms of money bargains, can be justified? We shall shortly advert to the reasons which have been adduced with this view.

The *first* reason given for the interference is the prevention of prodigality. It is well observed by Mr. Bentham, in the outset of this part of his argument, that although the preventing men from injuring one another is a most legitimate object of the lawgiver, it may well be doubted, whether he is as much called upon to interpose between a man and himself, supposing the person so meant to be protected has attained the years of discretion. If this is a good work at all, he thinks at least it is a work of supererogation. But, in truth, such is not the real operation of the restraints under consideration. Why should a man, because he is prodigal, be also insane? And yet no one of sound mind would think of giving six per cent. for the use of money, — how pressing soever his wants, if he could get it for five. Again — Can a man, however prodigal, be prevented from selling all he can get rid of by sale, and pledging all that won't sell? Those who have security of any kind to offer the lender are not protected by the law; for the lender never makes his bargain upon a view of the borrower's character and habits, but of his security — so that the law is not likely to prevent him in cases where he was disposed to lend; and the prodigality of the borrower, whose property is mortgaged, may be an inducement, in itself, to such as look towards obtaining possession of it. If, on the other hand, the spendthrift has no security to offer, how is he more likely to get money at a high than at a low rate? A friend is the only person likely to accommodate him, and he won't take more than the ordinary rate. Prodigals, in truth, are not the persons



who borrow large sums at exorbitant interest ; — they much more frequently borrow moderate sums, at the usual rate, in various quarters ; — and when they can find a lender disposed to speculate, and obtain a compensation for the great risk of trusting them in the high profits of the transaction, such an one will also neglect the prohibitions of the Usury Laws, and make the poor man pay so much more for the additional risk they make him run. But it is decisive of this argument, that the most certain road to ruin for all prodigals is to obtain goods upon credit, as long as their credit lasts ; and that no law interferes with this, — unless, indeed, we have recourse to the interdiction of the Roman jurisprudence. Mr. Bentham clearly shows, that tradesmen make raw customers pay a great deal more than money-lenders would do ; and he asks, where is the sense of stopping the expenditure of the prodigal at the faucet, while there are so many ways of letting it out at the bung-hole ?

The protection of indigence forms *another* reason urged in behalf of these restraints. But it is plain, that no one rate of interest can be adapted to every man's situation. To some it may be profitable to borrow, though they should pay ten per cent., while others may find six per cent. too high, compared with the gain they can derive. The Usury Laws, however, fix the amount of the interest, and consequently determine one standard of exigency for all. How does this arrangement operate — not in protecting, but in crushing, the indigent, whose protection forms its pretext ? No man will of himself give a farthing more for money than the lowest at which any one will lend it ; but he may be in such a situation that nobody will lend him that of which he stands in the greatest need, except he pays higher than the general average rate adopted by the law. To give more than this *maximum* would be for his advantage ; — it would be profitable to him, otherwise he would not desire to borrow on such terms. The law says, he shall not benefit himself, perhaps save himself, by giving what by the supposition he is able to give — and this, says our author, out of prudence and lovingkindness towards the poor man ! ‘ There may,’ he adds, ‘ be worse cruelty ; but can there be greater nonsense ? ’ It is evident, that if the protection of indigence were really the object of these laws, they stop short of their mark ; — they prevent a poor man, no doubt, from borrowing at a high rate ; but they take no means of compelling the rich to lend him at a lower rate.

A *third* reason alleged is the *protection* of simplicity. Now, it is plain that nothing short of the utmost simplicity can ever induce a man to make so improvident a bargain, as the giving more than he knows, or may easily learn to be necessary, for the use of money. There is nothing so easily ascertained as the market rate of interest. It does not vary from day to day, like the prices of goods ; and, when it shifts, it is only in a very small proportion. Moreover, it is the same all over the community. A simple man, or a man without being very simple, may be deceived in other bargains ; but here the legislator does not, indeed he cannot, render the least assistance. If a person unwarily pays too dear for goods or land, a case of daily occurrence, he must stand by his bargain, how speedily soever he may be undeceived ; and, indeed, here the law could not, in all cases, aid the unwary purchaser, however carefully contrived for his assistance, because the seller, having pocketed the price, may have decamped with it, or spent it. But in the case of loans, the unwary borrower, whom the legislator



pretends to assist, has always the security in his own hands; and if he has been really overreached, there is no possible difficulty in obtaining redress. Nor should it be forgotten, that if we are to suppose the case of persons so simple as to stand in need of protection in their money bargains, the same defect of prudence or sagacity exposes them to fully as great danger in all their other transactions. Nay, they may be overreached in the demand of the rate of interest fixed by law; for the market rate may, and often does, fall much below the legal *maximum*,—not to mention the injury a person of weak judgment may do himself by borrowing even at the lowest market rate, and injudiciously employing the sums so obtained. Yet in these cases no lawgiver ever dreamt of affording protection to simplicity; and indeed the attempt would be obviously hopeless.

It is urged as a *fourth* reason in favour of these restraints, that a free access to the money market tends to encourage projectors. Dr. Smith has greatly contributed to the prevalence of this notion. He classes projectors with prodigals; stigmatizes both as persons likely to waste the capital of the community; and approves of the *maximum*, from its tendency to keep a portion of that capital out of their hands. In no part of Mr. Bentham's tract is he more conspicuously successful than in his elaborate refutation of this dogma, and his exposition of the prejudices upon which it is founded. The restraint, as he justly remarks, professing to fall upon rash, imprudent, useless schemers, does in fact fall upon such persons as, in the 'pursuit of wealth, or even of any other object, endeavour, by the assistance of wealth, to strike into any channel of invention. It falls upon all such persons as, in the cultivation of any of those arts which have been by way of eminence termed *useful*, direct their endeavours to any of those departments in which their utility shines most conspicuous and indubitable; upon all such persons as, in the line of any of their pursuits, aim at any thing that can be called *improvement*; whether it consist in the production of any new article adapted to man's use, or in the meliorating the quality, or diminishing the expense, of any of those which are already known to us. It falls, in short, upon every application of the human powers, in which ingenuity stands in need of wealth for its assistant.'

It is indeed manifest that, in this view, the Usury Laws are absurd, unless it be possible to distinguish, before trial, good from bad, that is, successful from losing projects;—in which case the law ought to fix a *maximum* for the loans to the one, and leave the other free access to the market,—which is plainly impossible. Those who are too prudent to risk their money upon an unpromising scheme will risk it upon no scheme at all, but will lend only to established concerns. The temptation of higher profit than usual is absolutely necessary, to prevail upon capitalists to embark in new trades. The Usury Laws prevent, therefore, any capital from finding its way into those channels by way of loan, and directly discourage projects, that is, invention and improvement in all the arts of life; for without discouraging the useful and the good, they cannot discourage the wild and the bad. Shall we then say, that the danger to the capital of the community, from a failure of certain schemes, is so alarming as to justify us in putting down all manner of schemes, as far as lies in our power? Let it only be remembered, that every thing valuable in civilized life is the fruit of schemes; that all we enjoy above the lot of savages comes from arts that were once mere projects; and we shall not be disposed to



condemn, in one sweeping sentence, every innovation. This is in truth to denounce, as rash and ill grounded, (we use the author's forcible illustration,) all those projects by which our species has been successively advanced, from feeding upon acorns, and covering themselves with raw hides, to the state in which it at present stands. Whatever (as he says) is now *the routine* of trade was, at its commencement, *project*; whatever is now *establishment*, was at one time *innovation*.—And why such fears, after all, of our being impoverished by failing schemes? Long before the existence of the Usury Laws, the prosperity of our race was running on in an accelerating course;—long before the statutes in this country, its wealth and general improvement was rapidly and constantly advancing. There were every now and then failures and individual losses in consequence; still their proportion to the bulk of successful projects was trifling; and no one can maintain, that since the restraints were imposed, the proportion has diminished. Were the law silent on this head, money would still be lent to projectors by those most deeply interested in the prudent disposal of it. We may safely trust their discretion for its being kept out of desperate risks. No one, indeed, has ridiculed the over anxiety of such regulations as pretend to save men's capital from injudicious application more happily than Dr. Smith himself. It is the great text of which his immortal work is the illustration, almost in all its pages; and in no passage is he more severe than where he reprobates the intermeddling of Government to prevent private imprudence. After remarking, that the number of prudent and successful undertakings is everywhere much greater than that of injudicious and unsuccessful ones, he administers the following memorable correction to rulers for their love of meddling; and we may observe, that it is quite as well merited by the promoters of the Usury Laws as by any other class of legislators. ‘It is \* the highest impertinence and presumption, therefore, in kings and ministers to *pretend to watch over the economy of private people*, and to restrain their expense, either by sumptuary laws, or by prohibiting the importation of foreign luxuries. They are themselves always, and without exception, the greatest spendthrifts in the society. Let them look well after their own expense, and they may safely trust private people with theirs. If their own extravagance does not ruin the State, that of their subjects never will.’

To those who love reason, the arguments of this illustrious writer may suffice for removing all fears arising from the prodigality of individuals in wasting the national wealth; and those who prefer allowing the authority of great names to weighing their counsels, will require nothing more to make them reject, with contempt, all interference, on the part of lawyers, with the prudential regulation of private affairs. Yet the application of this conclusion, in which way soever we may reach it, to ordinary prodigality, is by no means more striking than to the squandering of projectors. Indeed, we believe no one can read the following admirable and conclusive reflections of Mr. Bentham, without being persuaded, that the fear of schemers is still more chimerical than that of less ingenious spendthrifts.

‘However presumptuous and impertinent it may be for the Sovereign to attempt in any way to check by legal restraints the *prodigality* of

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\* Wealth of Nations, book ii. chap. 3.



‘ individuals ; to attempt to check their *bad management*, by such re-  
 ‘ straints, seems abundantly more so. To err in the way of prodigality  
 ‘ is the lot, though, as you will observe, not of *many* men, in com-  
 ‘ parison of the whole mass of mankind, yet at least of *any* man : the  
 ‘ stuff fit to make a prodigal of is to be found in every alehouse and  
 ‘ under every hedge. But even to *err* in the way of projecting is the  
 ‘ lot only of the privileged few. Prodigality, though not so common  
 ‘ as to make any very material drain from the general mass of wealth,  
 ‘ is however too common to be regarded as a mark of distinction or  
 ‘ as a singularity. But the stepping aside from any of the beaten  
 ‘ paths of traffic is regarded as a singularity, as serving to distinguish  
 ‘ a man from other men. Even where it requires no genius, no pecu-  
 ‘ liarity of talent, as where it consists in nothing more than the find-  
 ‘ ing out a new market to buy or sell in, it requires however at least  
 ‘ a degree of courage, which is not to be found in the common herd  
 ‘ of men. What shall we say of it, where, in addition to the vulgar  
 ‘ quality of courage, it requires the rare endowment of genius, as in  
 ‘ the instance of all those successive enterprises by which arts and  
 ‘ manufactures have been brought from their original nothing to their  
 ‘ present splendour ? Think how small a part of the community these  
 ‘ must make in comparison of the race of prodigals ; of that very  
 ‘ race, which, were it only on account of the smallness of its number,  
 ‘ would appear too inconsiderable to you to deserve attention. Yet  
 ‘ prodigality is essentially and necessarily hurtful, as far as it goes,  
 ‘ to the opulence of the State : projecting, only by accident. Every  
 ‘ prodigal, without exception, impairs, by the very supposition impairs,  
 ‘ if he does not annihilate, his fortune. But it certainly is not every  
 ‘ projector that impairs his : it is not every projector that would have  
 ‘ done so, had there been none of those wise laws to hinder him : for  
 ‘ the fabric of national opulence — that fabric of which you proclaim,  
 ‘ with so generous an exultation, the continual increase — that fabric,  
 ‘ in every apartment of which, innumerable as they are, it required  
 ‘ the reprobated hand of a projector to lay the first stone, has required  
 ‘ some hands at least to be employed, and successfully employed.  
 ‘ When, in comparison of the number of prodigals, which is too incon-  
 ‘ siderable to deserve notice, the number of projectors of all kinds is  
 ‘ so much more inconsiderable — and when from this inconsiderable  
 ‘ number must be deducted the not inconsiderable proportion of suc-  
 ‘ cessful projectors — and from this remainder again, all those who  
 ‘ can carry on their projects without need of borrowing — think  
 ‘ whether it be possible that this last remainder could afford a multi-  
 ‘ tude, the reducing of which would be an object deserving the inter-  
 ‘ position of Government by its magnitude, even taking for granted  
 ‘ that it were an object proper in its nature ?

‘ If it be still a question, whether it be worth while for Government,  
 ‘ by its *reason*, to attempt to control the conduct of men visibly and  
 ‘ undeniably under the dominion of *passion*, and acting under that  
 ‘ dominion, contrary to the dictates of their own reason — in short,  
 ‘ to effect what is acknowledged to be their better judgment, against  
 ‘ what every body, even themselves, would acknowledge to be their  
 ‘ worse : is it endurable that the legislator should, by violence, substi-  
 ‘ tute his own pretended reason, the result of a momentary and scorn-  
 ‘ ful glance, the offspring of wantonness and arrogance, much rather  
 ‘ than of social anxiety and study, in the place of the humble reason



‘ of individuals, binding itself down with all its force to that very object which he pretends to have in view?—Nor let it be forgotten, that, on the side of the individual in this strange competition, there is the most perfect and minute knowledge and information which interest, the whole interest of a man’s reputation and fortune, can ensure: on the side of the legislator, the most perfect ignorance. All that he knows, all that he can know, is, that the enterprize is a *project*, which, merely because it is susceptible of that obnoxious name, he looks upon as a sort of cock, for him, in childish wantonness, to shie at. Shall the blind lead the blind? is a question that has been put of old to indicate the height of folly: but what then shall we say of him who, being necessarily blind, insists on leading, in paths he never trod in, those who can see?’ p. 159—165.

We cannot resist adorning our pages with another most striking passage, relative to the progress of improvement, and illustrative of the same point—the vain fears entertained of projectors.

‘ The career of art, the great road which receives the footsteps of projectors, may be considered as a vast, and perhaps unbounded, plain, bestrewed with gulphs, such as Curtius was swallowed up in. Each requires a human victim to fall into it ere it can close; but when it once closes, it closes to open no more, and so much of the path is safe to those who follow. If the want of perfect information of former miscarriages renders the reality of human life less happy than this picture, still the similitude must be acknowledged: and we see at once the only plain and effectual method for bringing that similitude still nearer and nearer to perfection; I mean, the framing the history of the projects of time past, and (what may be executed in much greater perfection, were but a finger held up by the hand of Government,) the making provision for recording, and collecting, and publishing as they are brought forth, the race of those with which the womb of futurity is still pregnant. But to pursue this idea, the execution of which is not within my competence, would lead me too far from the purpose.

‘ Comfortable it is to reflect, that this state of continually improving security is the natural state not only of the road to opulence, but of every other track of human life. In the war which industry and ingenuity maintain with fortune, past ages of ignorance and barbarism form the forlorn hope, which has been detached in advance, and made a sacrifice of for the sake of future. The golden age, it is but too true, is not the lot of the generation in which we live: but, if it is to be found in any part of the track marked out for human existence, it will be found, I trust, not in any part which is past, but in some part which is to come.

‘ Is it worth adding, though it be undeniably true, that could it even be proved, by ever so uncontrovertible evidence, that, from the beginning of time to the present day, there never was a project that did not terminate in the ruin of its author; not even from such a fact as this could the legislator derive any sufficient warrant, so much as for wishing to see the spirit of projects in any degree repressed?—The discouraging motto, *Sic vos non vobis*, may be matter of serious consideration to the individual; but what is it to the legislator? What general, let him attack with ever so superior an army, but knows that hundreds, or perhaps thousands, must perish at the first onset? Shall he, for that consideration alone, lie inactive in his lines? “ Every

‘ man for himself — but God ” adds the proverb (and it might have added the general, and the legislator, and all other public servants,) “ for us all.” Those sacrifices of individual to general welfare, which, on so many occasions, are made by third persons against men’s wills, shall the parties themselves be restrained from making, when they do it of their own choice? To tie men neck and heels, and throw them into the gulphs I have been speaking of, is altogether out of the question: but if at every gulph a Curtius stands mounted and caparisoned, ready to take the leap, is it for the legislator, in a fit of old-womanish tenderness, to pull him away? Laying even public interest out of the question, and considering nothing but the feelings of the individuals immediately concerned, a legislator would scarcely do so, who knew the value of hope, “ the most precious gift of heaven.”’ p. 169 —177.

We have now gone through all the reasons urged in defence of the Usury Laws, from their supposed virtues in checking fraud, oppression, prodigality, and projects; and we are now to see what their real effects are, having observed how miserably they fail in producing the benefits ascribed to their operation. In other words, we have found that they produce none of the good which they pretend to have in view; and we are now to see the mischiefs which they create in all directions.

The most obvious mischief is the depriving many persons altogether of the loans which they stand in need of. A person having the means of supplying himself with money, and having also the utmost necessity, is precluded from all chance of obtaining it, unless he has still further means of meeting his wants, by evading, at an additional cost, the laws in question. He may have security enough to induce a lender to accommodate him for seven per cent., and means to pay that premium punctually. No one will lend him at five; the law says he shall not borrow at more than five; therefore, unless the law be broken, he cannot borrow at all. Again, the lender will not run the risks which the law creates for seven per cent., and we are supposing this to be as much as the borrower can give; therefore he cannot, in point of *fact*, borrow at all; and yet, but for the law, he could have relieved his wants with ease. Now, it must be observed, that the class of persons of whom we are speaking are exactly those who have the greatest occasion for assistance, and the best claims to it; since, by the supposition, they cannot do without the loan, and are both able and willing to pay the extraordinary rate of interest.

The next mischief is that which the law inflicts upon those who have the means of giving, not only such an extraordinary rate of interest as the lenders, but for the restrictions, would be satisfied with, but somewhat more. These are not excluded altogether from the money market, like the class already mentioned, — but the terms of the bargain are raised to them. Suppose they have nothing to sell by which they can raise the money they want, then they must pay for the breach of the law, and this in two ways — both by giving a sufficient premium to the lender to make him run the extraordinary risk, and because the illegality of the trade keeps many dealers out of it, and, by narrowing the competition, raises the profits. In the course of the last twenty years, a great trade has been driven in annuities, which admirably illustrates the operation of these laws, this being a perfectly legal mode of evading them, and yet one attended with ruinous expense to the borrower. The law has imposed a number of regulations upon such transactions, with



the view of preventing them from becoming too easy a means of evading the Usury Laws. Those regulations increasing the risk of the lender, somewhat raise the price to the borrower. Then the nature of the transaction renders an insurance necessary upon the life of the borrower; and this is a large increase of price. Moreover, the number of lenders at usurious interest in the illegal way being narrowed by the competition, as all who are driven from this traffic do not necessarily resort to the line of annuities, the market is, notwithstanding the legal method of evasion, considerably narrowed. It has thus happened, that persons with excellent security, and who could easily have gotten loans at six and a half or seven per cent. but for the law, are obliged to pay eight or nine, besides the insurance, or from ten to twelve in all; and this, not to private money lenders, who exact much more, but to the great insurance companies, who have fallen upon this way of employing their superfluous capital, tempted by the double gains of lenders and insurers. We speak from the authority of assertions repeatedly made in Parliament last session, and uncontradicted, though many persons connected with those companies, and with the borrowers, were present. No cases, it was alleged, had occurred in late times of those companies making the borrower pay less in all than ten per cent., how good soever his security — (and the greatest families in the country were alluded to) — unless in one instance, where the accidental circumstance of the borrower having a very large estate in houses, induced an office to give better terms, in consideration of having the insurances of that property. If such reputable lenders exacted such terms, we may be sure that many individuals required far harder conditions; and where a mode of effecting the loan wholly unlawful was adopted, the price paid must have been still much higher. The case now related furnishes a good illustration of the direct pressure upon the borrower, occasioned by the restraints, because, at any rate, the price of the insurance, which formed part of the expense, was entirely caused by the course into which the necessity of evading the Usury Laws drove the transaction. This premium was a per-centage, beyond all question, levied by those laws.

Suppose now, that the laws have prevented a man from borrowing at seven per cent., and that he has still goods which he can part with to raise the money. But for the law he might keep his goods; and nothing can prevent his selling them at an under price, according to his necessities. No one who has known any thing of sales made in distressed circumstances will think a loss of thirty per cent. very extraordinary in such cases. To such a loss as this, the most exorbitant usury bears no proportion; yet this is exactly the premium which the distressed man is compelled to pay for money by the law which says he shall not borrow at the rate of five and a half. The pressure upon proprietors of real estates is still more severe. Suppose a man comes into possession of an estate worth two hundred a year, charged with a thousand pounds; and that the incumbrancer wishes to have his money rather than the legal interest, but would be satisfied with one or two per cent. above that rate; — at any rate, if he would not, some other certainly could be found to advance the money at that premium, upon the same security. Suppose, too, that the time in question is such a season as the present, or the end of the American war, when land fell as low as eighteen and even sixteen years' purchase, and some kinds of real property, as villas and houses, generally sold for a half, or even a quarter,



of what they had cost before any money was expended upon improvements. Such periods of general distress, and consequent depreciation of property, may last more or less according to circumstances. We may suppose a duration, Mr. Bentham thinks, in the American war, of seven years, because property did not recover immediately on the peace, any more than it sunk at the very beginning of the war. One per cent for seven years is worth less than seven per cent. the first year: but — take it as equal. The estate which was worth six thousand pounds, or thirty years' purchase, before the war, and was reckoned at this by the deviser, when he charged it with a thousand pounds, fetches now only twenty years' purchase, or four thousand pounds; whereas had it been kept till the period of depreciation expired, it would have again brought its original value. Now, compare the devisee's situation, says our author, at the end of the seven years under the Usury Laws, with his situation had he been left unfettered to make his money bargain. In the one case he sells for four thousand, pays off one thousand, retains three thousand; which, with legal interest for seven years, makes a reversion of four thousand and fifty pounds. In the other case, he pays six per cent. upon the debt of a thousand pounds, that is, four hundred and twenty pounds, and receives fourteen hundred from the land; in other words, he has nine hundred and eighty pounds left, besides the six thousand pounds, for which he can sell his estate; that is, he has six thousand nine hundred and eighty pounds, instead of four thousand and fifty, or he loses exactly two thousand eight hundred and thirty pounds by the kindness of the law in protecting him from usurers. Thus, by preventing him from borrowing at six per cent., the law has cost him more than he would have paid had he borrowed at ten per cent. This estimate has been made upon the supposition of the depreciation lasting seven years, the period of the American war. It happened that property did not fall in value till towards the end of the late war, from accidental circumstances, which we fully explained in our fifty-second Number. How long the present state of things may continue, no one can now foretell; but it is manifest that the probability always is strongly in favour of the distress lasting nearly as long as the war; that is, commencing a year or two after it begins, and continuing about as long after it ends. Had this been the case in the late war, the above calculation would have given a result greatly more unfavourable to the restrictions in question.

The last mischief occasioned by the Usury Laws is, in our estimation, far more important than all the rest; — the corruptive influence which they exercise upon the morals of the people by the pains they take, and (as the author most justly observes) cannot but take, to give birth to treachery and ingratitude. In illustration of this point, we can do no better than refer to his own concise and forcible statement.

‘ To purchase a possibility of being enforced, the law neither has found, nor, what is very material, must it ever hope to find, in this case, any other expedient than that of hiring a man to break his engagement, and to crush the hand that has been reached out to help him. In the case of informers in general, there has been no truth plighted nor benefit received. In the case of real criminals, invited by rewards to inform against accomplices, it is by such *breach* of faith that society is held together, as in other cases by the *observance* of it. In the case of real crimes, in proportion as their mischievousness is apparent, what cannot but be manifest even to the criminal is, that it



‘ is by the adherence to his engagement that he would do an injury to society, and that, by the breach of such engagement, instead of doing mischief he is doing good. In the case of usury this is what no man can know, and what one can scarcely think it possible for any man who, in the character of the borrower, has been concerned in such a transaction to imagine. He knew that, even in his own judgment, the engagement was a beneficial one to himself, or he would not have entered into it; and nobody else but the lender is affected by it.’ p. 60, 61.

It is very common with those who admit the mischievous tendency of the Usury Laws to question their efficacy in reducing the rate of interest; and Dr. Smith has expressly denied that they ever can bring it below the lowest ordinary market rate at the time of their enactment. Mr. Bentham combats this opinion very ingeniously, and contends that whatever circumstances exist to prevent the efficacy of those restrictions, where they are intended to bring the premium below the lowest market rate, would exist in a degree nearly equal to prevent their efficacy in competition with a higher rate. The doctrine of the law’s necessary inefficacy presupposes an actual combination or a tacit consent among all men to break the law, otherwise regulations might be contrived to prevent its evasion. The instance of France is given by Dr. Smith, where an edict, in 1766, lowering the legal rate from five to four per cent., was quite inefficacious; and Mr. Bentham adds the case of Russia\*, where the legal rate is five and the lowest actual rate on good security eight. But still he contends that better means of enforcing the restraints might have another effect. Upon this branch of his subject we do not find the same degree of fulness as on the other topics, and shall therefore take the liberty of adding a few words upon the real effect produced in the money market. We take this to be, in every case and at all times, in the direction contrary to the intent of the legislature. It cannot be denied that a system of checks might be contrived rendering evasion extremely difficult; but it does by no means follow from hence, that there is money lent below the natural rate of the market, and for this obvious reason, that the law, how effectual soever to prevent the higher rate, never can compel persons to lend at the lower rate. The utmost efficacy of the law, therefore — its whole power, if perfect, — can only extend to preventing money from being lent at all, unless we suppose a class of persons who are compelled by peculiar circumstances to lend, and who must, therefore, be content with the legal interest. But this class is so very small as to have no perceptible effect on the general market. Now, the greater the number of lenders who are thus kept out of the market, the higher the rate must be to those who succeed in evading the law; therefore, as the perfection of the contrivances to prevent usury could only end in preventing all loans, so, when those contrivances fall short of perfection, as they always do to a certain degree, they only raise the rate higher than it otherwise would be, and this, independent of the premium which they render necessary from the increased risk, merely by narrowing the competition of lenders. We have already illustrated the manner in which the Usury Laws operate upon annuity transactions, and still more upon all prohibited methods of negotiating loans. At present, we may conclude from

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\* These Letters, as is well known, were written at Critchoff, in White Russia.

what has been said, that, as far as regards their efficacy, those laws must either produce one or other of two consequences: — If wholly successful, they must prevent all loans; if partially successful, they must raise the terms of the bargain to the borrower — that is to say, they can by no possibility do any thing but counteract, in one way or another, the intent of the legislature who enacts them.

A consideration of the insufficiency of these restraints naturally leads us to inquire whether, in other particulars, the laws against Usury are consistent with their avowed purposes? and the most cursory reflection is sufficient to show that they allow of transactions substantially usurious, and, indeed, that they cannot prevent these without wholly putting a stop to the course of trade. Some of the most ordinary occurrences in commerce are in their nature usury. The practice of drawing and redrawing, by which merchants are accommodated with money for a short time, at a certain commission over and above the five per cent., and then for as much longer, until they pay ten, twelve, and more per cent. during the whole year, is only a more cumbrous and expensive method of borrowing above the legal rate of interest. But other well-known lines of traffic, though apparently more remote from usury, are not less closely connected with it: — Pawnbroking, Bottomry, and *Responsentia* will immediately occur to the reader. Nay, insurance in all its branches, and the purchase and sale of *post-obits*, with all cases in which a man is allowed to undertake an unlimited risk for an unlimited premium, are in their principle usurious transactions. Of these, the most notorious is the traffic in annuities, which, accordingly, has been found to be the easiest and safest mode of evading the Usury Laws, although we have already shown how greatly it increases the rate of interest.

Of the same nature with the laws we have been considering, and founded upon errors of the same kind, are the barbarous penalties imposed upon all who assist suitors in courts of justice with the means of enforcing their rights, stipulating for a certain premium. The law of England considers this as a crime, and denominates it *maintenance*; or, if the question affects real property, and the lender is rewarded with a share of the estate recovered, *champerty*; and these names are almost as odious as the appellation of usurer, insomuch that there are cases in the books of actions for slander, in which the terms of reproach were the calling the plaintiff a *champertor*. The grievous expense of law proceedings is one of the prime abuses in our system; and we shall, in the sequel of this article, have occasion to mention it again. But what can be said of a law which at once renders the assertion of a man's just rights extremely costly, and precludes him from the only means of defraying the cost? By the supposition that he is deprived of his rights, he is poor and unable to pay the expense of obtaining justice. Yet we won't allow him to get assistance upon the only terms on which, in the vast majority of cases, such aid is to be had. The Usury Laws, though originating in antient prejudices, are of comparatively modern date. The laws against maintenance and champerty are the growth of a barbarous age, and arose from the apprehension that powerful men might purchase unjust claims, and overawe the judge by an array of force. That these laws were not the fit remedy for such an evil seems obvious enough; but, at all events, nothing can be more ridiculous than our persisting in their enforcement in an age when no suitor, however powerful, can hope to sway the balance of justice, at least in those tribunals to which the laws in question apply.



We have now stated the whole argument against the Usury Laws; and it applies to every similar contrivance, in what notions soever founded, or by whatever checks supported, for protecting men's interests in spite of themselves, and controlling them in the management of their private business, for the purpose of making that business prosper, whether they will or no. There is nothing more conclusive in the whole range of political science, we might say nothing in any science, except the mathematics.\*

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### ECONOMICAL AND SECURE CURRENCY.†

THE events which have occurred since the epoch of the parliamentary discussions relative to the Bullion Report, and more especially the restoration of the *par* of exchange and the fall in the price of bullion in 1814 and 1815, have thrown new light on some points which were then involved in considerable obscurity. We have now witnessed the effects produced, as well by a sudden diminution as by a rapid increase in the amount of the circulating medium; and it will be our own fault if we do not avail ourselves of this experience, not only to establish and elucidate the true theory of metallic and paper money, but also to regulate and digest those practical measures which are now become necessary.

In addition to this, the extraordinary progress which has of late been made in the elucidation of the fundamental principles of political economy, and in separating and disentangling them from the errors with which they had been incumbered, has in nothing been more conspicuous than in what relates to money. The principle on which the value of bank paper is sustained on a *par* with the value of gold or silver, and by which its value in exchange may be raised to any conceivable extent, has been fully and satisfactorily developed; and, by a happy and ingenious application of this principle, Mr. Ricardo has shown that, in order to avoid all fluctuations in the value of paper money, except such as are incident to the metal itself which is assumed as the standard of value, and to preserve it constantly on a *par* with that metal, it is not necessary it should be rendered exchangeable for *coined money*. It shall be our object to endeavour to explain these principles, and to show how, without the circulation of a single gold coin, we may have all the security against depreciation and sudden and injurious fluctuations in the value of the currency, that we should possess if it consisted wholly of that metal.

There does not now seem to be much room for difference of opinion respecting the circumstances which regulate the value of metallic

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\* I am sorry I have not room for two able Essays on the Combination Laws, and the Navigation Laws. See Vol. xxxix. p. 315, and Vol. xxxviii. p. 478. In Vol. xlii. p. 99. there is a learned and eloquent article on the Alien Law of England well worth perusal.

† 1. Proposals for an Economical and Secure Currency; with Observations on the Profits of the Bank of England, &c. By David Ricardo, Esq.

2. An Essay on Money. By C. R. Prinsep, Esq. Vol. xxxi. p. 53. December, 1818.

money, and its distribution throughout the various countries of the globe. Bullion is a commodity, on the production of which competition operates without any restraint: it is not subjected to any species of monopoly,—and its value in exchange must, therefore, be entirely regulated by the cost of its production, that is, by the quantity of labour necessary to bring any given quantity of it to market.

If, in every stage of society, it required precisely the same quantity of labour to produce a given quantity of bullion, its value would be invariable; and it would constitute a standard by which the variations in the exchangeable value of all other commodities could be ascertained. But this is not the case either with bullion or any other commodity; and its value, in the same way as the value of raw produce, manufactured goods, &c., fluctuates not only according to the greater or less productiveness of the mines from which it is extracted, but also according to the comparative skill of the miners, and the successive improvements of machinery.

The circumstance of the precious metals being used not only as an ordinary commodity in the manufacture of utensils, &c., but also as a circulating medium to expedite the exchange of other commodities, cannot effect their exchangeable value. The capital devoted to the producing of gold and silver must yield the common and ordinary rate of profit; for, if it yielded more than this rate, there would be an influx of capital to the mining business; and, if it yielded less, it would be withdrawn, and invested in some more lucrative employment. And hence, if the demand for gold and silver, from the commercial world gradually adopting any other commodity as an instrument of exchange, were diminished, the value of the precious metals would not, on that account, be reduced. A smaller supply would indeed be annually brought to market, and a portion of the capital formerly engaged in the mining, or refining and preparing the metals, would be disengaged; but, as the whole stock thus employed yielded only the average rate of profit, the portion which is not withdrawn must continue to do so,—or, what is the same thing, gold and silver must still continue to sell for the same price. It is, indeed, true that where mines are of different degrees of productiveness, any great falling off in the demand for bullion might, by rendering it unnecessary to work the inferior mines, enable the proprietors of the richer mines to continue their work, and to obtain the ordinary rate of profit on their capitals, by selling their bullion at a reduced price. In this case the value of bullion would be really diminished; but it would be diminished, not because there was a falling off in the demand, but because there was a greater facility of production. On the other hand, an increased demand for bullion, whether it arose from the general suppression of paper money, or of a greater consumption of gold and silver in the arts, or from any other cause, would not — unless it was necessary, in order to procure the increased supply, to have recourse to mines of an inferior degree of productiveness — be accompanied by any rise of price. If the mines from which the additional supplies were to be drawn were less productive than those already wrought, more labour would be necessary to procure the same quantity of bullion, and of course its price would rise. But if no such increase of labour was required, its price would remain stationary, though a thousand times the quantity formerly required should be demanded.

After gold and silver have been brought into the market, whether



they shall be converted into coin or into manufactured commodities, depends entirely on the fact, whether they will yield greater profits in the one way or the other. No person would take bullion to the mint, if he could realize a greater profit by disposing of it to a jeweller ; and no jeweller would work up bullion into plate, or expend it in gilding, &c., if he could turn it to greater account by converting it into coin. The value of bullion and coin must, therefore, in a country where the expenses of mintage are borne by the State, nearly correspond. When there is any unusual demand for bullion, coin will be melted down ; and when, on the contrary, there is any unusual demand for coin, plate will be sent to the mint, and the equilibrium of value maintained.

While, therefore, competition is allowed to operate without restraint on the production of gold and silver, they will, like all other commodities, be valuable only in proportion to the quantity of labour necessarily expended in bringing them to market. And hence, while they constitute the currency of the commercial world, the price of commodities, or their value, compared with gold and silver, will vary, not only according to the variations in the real value of the commodities themselves, but also according to the variations in the real value of the gold and silver with which they are compared.

But if competition was not allowed to operate on the production of the precious metals,—if they could be monopolized, and limited in their quantity, — their exchangeable value would no longer be regulated by the same principles. If, after the limitation, they still continued to be used as a circulating medium ; and if, in consequence of the improvement of society, manufactured commodities and valuable products of all kinds should be very much multiplied, the exchanges which this *limited* amount of currency would have to perform would be proportionably increased ; and, of course, a proportionably smaller sum would be devoted to each particular transaction ; or, which is the same thing, money prices would be diminished. Whenever the supply of money becomes fixed, the amount of it to be given in exchange for any one commodity varies inversely as the *demand*, and is altogether unaffected by any other circumstance. If double the usual supply of commodities were brought to market, in a country with a limited currency, their money price would be reduced one half ; and if only half the usual supply were brought to market, it would be increased one half ; and this, whether the cost of their production was increased or diminished. In such a state of society, no person would exchange a bushel of wheat, or a yard of cloth, for money, on the ground that this money was a commodity possessed of equal *intrinsic* value, or because an equal quantity of labour had been expended on its production ; but solely because it was necessary or expedient to have their value, relatively to other commodities, ascertained by a comparison with that particular commodity which had been set apart as a general standard or measure of exchangeable value. Guineas, sovereigns, livres, &c. would then really constitute mere tickets or counters, to be used in computing the relative value of property, and in transferring it from one person to another ; and as a small quantity of such tickets or counters would serve for this purpose quite as well as a large quantity, it is unquestionably true, that a debased currency might, by limiting its quantity, be made to circulate at the value it would bear if it were possessed of the legal weight and fineness ; and by still further limiting its quantity, it might be made to pass at any higher value.



Whatever, therefore, may be the nature of the circulating medium of any country, whether it consist of gold, silver, copper, leather, salt, cowries, or paper, and however destitute it may be of all intrinsic value, it is yet possible, by sufficiently limiting its quantity, to raise its value in exchange to any conceivable extent.

Thus, supposing the circulating medium of this country to be limited to 50 or 60 millions of one pound notes, and that it was altogether impossible to increase or diminish that sum, either by issuing additional notes or coins, or by withdrawing the notes already in circulation, then it is obvious, that the exchangeable value of such notes would thereafter increase or diminish according as the mass of circulating products, and consequently the business to be performed by this paper money, increased or diminished. If we suppose that ten times the amount of products that were in circulation when this limitation of the currency took place are in circulation ten or twenty years afterwards, prices will have fallen to *one tenth* of their former amount; or, what is the same thing, the exchangeable value of the paper money will have increased in a tenfold proportion;—and, on the other hand, if the products in circulation had diminished in the same proportion, the value of the paper money would have been equally reduced.

It is not, therefore, necessary that paper money should, in order to sustain its value on a par with gold, be convertible at the pleasure of the holder into that metal. It is only necessary that its quantity should be regulated according to the value of the metal which is declared to be the standard. If the standard were gold of a given weight and fineness, paper might be increased with every fall in the value of gold, or, which is the same thing in its effects, with every rise in the price of goods.

We have stated these principles somewhat at large, for they are of the utmost importance to a right understanding of the real nature of money. Almost every writer of authority, on Political Economy, has maintained, that the value of money depended entirely on the relation between the supply and the demand. But this is true only of a gold currency limited in its quantity, or of a paper currency also limited in its quantity, and *not* convertible into gold and silver. Such a currency not being possessed of any intrinsic value, its worth in exchange is necessarily regulated by the proportion which its total amount bears to the business which it has to perform, or to the demand; and the general opinion, that the prices of commodities depend on the proportion between them and money, and that any considerable increase or diminution of either would have the effect of proportionably diminishing or increasing money prices, would, in such circumstances, be quite correct. It is altogether different, however, with a currency consisting of gold and silver, or of any other commodity whose cost of production is considerable, and the quantity of which may be increased to an unlimited extent by the operation of unrestricted competition.

It is not the ratio between the supply and demand for such money which can operate any permanent effect on its value; but it is the comparative cost of its production, or, as Mr. Ricardo has demonstrated, the comparative *quantities of labour* necessary to bring it to market. If a guinea ordinarily exchanges for a couple of bushels of wheat, or a hat, it is because the same labour has been expended on its production as on that of either of these commodities; while, if, with a limited paper currency, such commodities exchanged for a piece of engraved



paper denominated a *guinea note*, it would only be because such was the proportion which, as a part of the general mass of circulating commodities, they bore to the supply of paper in the market. This proportion would be affected by an increase or a diminution of the supply either of paper or commodities. But the relation which commodities bear to a gold currency can only be permanently affected by a change in the quantity of labour necessary to manufacture the commodities, or to produce the gold for which they are exchanged.

We must here caution our readers against supposing that we mean to insinuate that the value of gold and silver cannot be affected by the comparative state of the demand for, and the supply of, these metals. Certainly, however, they are infinitely less affected by such fluctuations than almost any other commodity with which we are acquainted. Their great durability, and the care universally taken to preserve them, preclude the possibility of any sudden diminution of their quantity, while the immense surface over which they are spread, and the various purposes to which they are applied, prevent any unusual productiveness of the mines from speedily lowering their value. An extraordinary event, such as the discovery of America, or the establishment of an intercourse between a country where bullion bore a very high value, and one where its value, from the greater facility of its production, is comparatively low, might, by suddenly increasing the supply, sink its value considerably: but such events must necessarily be of very rare occurrence. And although the value of gold and silver must, because of the different qualities of the mines to which, in the progress of society, recourse must be had, and because of the successive improvements in the art of mining and working metals, be very different at distant periods, — it is abundantly uniform to secure us against every risk of sudden and injurious fluctuations.

Such appear to us to be the distinguishing characteristics of a currency formed of a really valuable commodity, the supply of which is not subjected to any species of monopoly; and of one formed of a commodity possessed of no intrinsic worth, but limited in its amount. The value of the former depends, like that of every other commodity, on the cost of its production; while the value of the latter is totally unaffected by that circumstance, and depends entirely on the extent to which it has been issued, compared with the demand.

It is by this principle of limitation, and not from any idea that the notes would at some future period be paid in cash, that the value of the paper currency of this country has been sustained since the passing of the Restriction act in 1797. When the holder of a bill presents it for discount at the Bank of England, it is quite immaterial to him, and he never once considers, whether the notes which the Bank gives him in exchange for his bill are payable in specie or not. This, to be sure, is, on other accounts, of the greatest importance; but the presenter of a bill for discount only wants to convert it into paper of equal value; which he may, with greater facility, exchange for any species of commodities, or which will be taken in payment of the debts he has contracted. He is altogether indifferent as to the fact, whether the Bank has issued such a quantity of paper as to depreciate its value comparatively to gold, or whether it has so limited its issues as to sustain its notes on a par with that metal. These are circumstances which affect every class of society, whose incomes cannot easily be varied with the variations in the value of money: but, inasmuch as the money price of



goods rise and fall with every increase or diminution of the supply of paper, merchants are but comparatively little affected by its fluctuations. The merchant who presents a bill for 500*l.* or 1000*l.* to a bank, has acquired this bill, if it has arisen out of a real commercial transaction, in lieu of a certain quantity of goods, which, at the then value of money, were worth 500*l.* or 1000*l.*; and it is this 500*l.* or 1000*l.* which, by presenting his bill to the Bank, he wishes to obtain. If the value of money had been different, the sum for which the bill would have been drawn would also have been different. It is to this market value of money at the time, that, in all commercial affairs, attention is exclusively paid. When in 1809, 10, 11, 12, 13, and 14, the Bank issued such a quantity of paper as to depress its value below the value of bullion, the circumstance of an act of Parliament having declared, that bank notes would be paid in cash at the restoration of peace, had no effect in raising their value. Merchants only draw money from a bank, because they have immediate occasion for its services. After it has been drawn, they throw it into the market for whatever it will bring; and, as they purchased it on the same terms, (for the value of money can be but slightly affected in the interval between the time that a bill is discounted and when it becomes due,) they generally get as much for it, and perhaps more, than it cost. We shall afterwards endeavour to explain what it is which constitutes the natural limit to the applications of merchants for discounts. But what we have already said must, we think, render it evident, that it has nothing to do with the convertibility of notes into specie.

In like manner, those who have recourse to a bank to obtain discounts of accommodation bills, consider only the present value of money. No person discounts accommodation paper, except with a view of immediately employing the money so obtained, either in the purchasing of commodities or labour, or in the payment of debts: and whether one-pound notes are worth 10*s.* or 20*s.* is of no consequence, inasmuch as the amount of the bill presented for discount is regulated accordingly.

The circumstance of the circulation of country bank notes ceasing as soon as any general apprehension is entertained of the solvency of those by whom they are issued is nowise inconsistent with this principle. Country bank notes are rendered exchangeable, at the pleasure of the holder, for Bank of England notes; but since the epoch of the Restriction, the latter not being exchangeable for any other commodity, they constitute the real standard of exchangeable value. When a country bank loses credit, the circulation of its notes is stopped, because a suspicion is entertained that it will be impossible to exchange them for paper of the Bank of England, or, in other words, for that species of paper which constitutes the real medium of exchange. But it is impossible to imagine that the paper constituting this medium should itself be affected by a want of credit. Every individual knows that it never had any intrinsic worth; and, as we have already shown, its value was always regulated, and must, as long as it is not rendered exchangeable for a *given quantity* of some other commodity, continue to be regulated, by the amount of it in circulation compared with the demand.

It appears, therefore, that if there was perfect security that the power of issuing paper money would not be abused, — that is, if there was perfect security for its being issued in such quantities as to preserve its value relatively to the mass of circulating commodities nearly



uniform,—the precious metals might be entirely discarded from circulation.

Unfortunately, however, no such security can be given. If this power of supplying the State with money is vested in a private banking company such as the Bank of England; then, to suppose that they should constantly endeavour to sustain the value of their notes would be to suppose that they should be extremely attentive to the public interests, and extremely inattentive to their own. The rendering the Restriction Act perpetual would not, in our opinion, at all affect the value of our paper currency, provided its quantity was not at the same time increased. But that, in such circumstances, it would be increased is morally certain. Such a proceeding would enable the Bank of England to exchange engraved paper, not worth perhaps 5s. a quire, for as many, or the value of as many, hundreds of thousands of pounds. And is it to be supposed that the Directors and Proprietors of the Bank would not avail themselves of such an opportunity to amass wealth and riches? Is it to be supposed, that if the State enables a private gentleman to exchange a bit of paper for an estate, he will be deterred from doing so by any metaphysical considerations about its effect on the currency of the kingdom! In Loo Choo we might perhaps meet with such a primitive individual; but if we expect to find him in Europe, we shall assuredly be disappointed. In this quarter of the globe we are much too eager in the pursuit of fortune, to be at all affected by any such Utopian scruples.

On this point we are not left to be guided by general principles. We have it in our power to appeal to a widely extended and uniform course of experience,—to the history of Great Britain and every other state in Europe, and to that of the United States,—to show that no man, or set of men, have ever been invested with the power of making unrestricted issues of paper money without abusing it,—or, which is the same thing, without issuing it in inordinate quantities. It is essential, therefore, that the issuers of paper money should be placed under some species of check or control; and, for the reasons already stated, none seems so proper for that purpose as to subject the issuers of paper money to the obligation of exchanging their notes at the pleasure of the holder for a given and unvarying quantity either of gold or silver coin or bullion.

But it has been contended, that there is a radical difference between paper money issued by a government in payment of the debts it has contracted, and that which is issued by a private banking company in discount of good bills. In regard to the former, it is admitted on all hands, that it may be issued in excess; but in regard to the latter, it has been strenuously urged, that ‘notes issued only in proportion to the demand, in exchange for good and convertible securities payable at specific periods, cannot tend to any excess in the circulation, or to any depreciation.’ As every one of the arguments advanced by those who maintain that our paper currency has not been depreciated since 1797, involve this principle, it will be necessary to examine it a little minutely.

In the *first* place, it may be observed, that the demand for discounts depends *not* on the nature of the security required for the repayment of the sums advanced by a bank, but *on the rate of interest for which these sums can be obtained, compared with the ordinary rate of profit which may be made by their employment.* If a person can procure 1000*l.*,

10,000*l.* or any greater sum from a banker, at 4, 5, or 6 per cent., and if he can realize 7, 8, or 10 per cent. by its employment as capital, it is evidently for his interest, and for the interest of every other person similarly situated, to borrow to an unlimited extent. But a banking company which was relieved from all obligation to pay its notes in cash, and which, of course, was not obliged to keep any portion of *unproductive stock* or bullion in its coffers, would be able to issue its notes at a very low rate of interest. The demand for its paper would, therefore, be proportionably great.

‘ The interest of money,’ says Mr. Ricardo, ‘ is not regulated by the rate at which the Bank will lend, whether it be 5, 4, or 3 per cent., but by the rate of profits which can be made by the employment of capital, and which is totally independent of the quantity or of the value of money. Whether the Bank lent one million, ten millions, or a hundred millions, they would not permanently alter the market rate of interest; they would alter only the value of the money which they thus issued. In one case, ten or twenty times more money might be required to carry on the same business than what might be required in the other. The applications to the Bank for money, then, depend on the comparison between the rate of profits that may be made by the employment of it, and the rate at which they are willing to lend it. If they charge less than the market rate of interest, there is no amount of money which they might not lend; — if they charge more than that rate, none but spendthrifts and prodigals would be found to borrow of them. We accordingly find, that when the market rate of interest exceeds the rate of 5 per cent., at which the Bank uniformly lends, the discount office is besieged with applicants for money; and on the contrary, when the market rate is even temporarily under 5 per cent., the clerks of that office have no employment.’\*

From 1809 to 1815 inclusive, the period in which the value of our paper currency relatively to gold was lowest, the market rate of interest considerably exceeded the rate (5 per cent.) at which the Bank of England, and most of the country banks, discounted. Although, therefore, the amount of the paper currency of the country had in that interval been very much increased, the applicants for fresh discounts continued as numerous as ever: and there appears no reason to doubt, that, had the Directors not been apprehensive that ultimately they might be called upon to pay their notes in specie, the quantity of them in circulation in 1813 and 1814 would have been very much increased — at least, such would most unquestionably have been the fact, had the Directors acted to the full extent of their avowed opinion, that it was impossible to issue too much paper, or to reduce its value, by engrossing into the circulation such quantities as could be issued in discount of good bills. The wants of commerce are altogether insatiable. Paper money, provided the rate of interest at which bills are discounted is less than the market rate, can never be too abundant. As long as this is the case, million after million may be thrown into the market. The value of the currency may be so reduced as to require a one-pound note to purchase a quartern loaf; and yet, as its value is diminished in proportion to the increase of its quantity, the demand for additional supplies would continue as great as ever.

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\* Principles of Political Economy, &c. p. 511.



If the Bank of England were alone in the possession of an alchemical process, whereby guineas could be manufactured with the same facility as notes, it would not be disputed, that it would then be in the power of the Bank to depreciate the former value of gold by issues of what had been produced at so very little cost. Now, in what respect does this fictitious case differ from the actual situation of the Bank? While the restriction continues, the Bank is enabled to transmute, or, which is the same in its effects, to exchange pieces of paper for landed property, manufactured goods, government securities, &c. But the value of this paper, like the value of the gold in the hypothetical case, depends entirely on the proportion which the supply bears to the demand; and, as this demand is not affected by an increase of quantity, — for that increase, by diminishing its value, renders the larger quantity of as little efficacy as the lesser quantity was before, — it is abundantly clear, that if the Bank lent at a sufficiently low rate of interest, there could be no possible limit to its issues.

In the *second* place, if it were true, which unquestionably it is not, that the notes of a private banking company, issued in discount of good mercantile paper, could not be depreciated from excess, that will not apply to the case of the Bank of England; for the greater part of its paper is issued in payment of the interest of the national debt, amounting to about thirty millions per annum, exclusive of the sinking fund. And really, when such is the fact, it is a little too much to contend, as the apologists of the Restriction Act have almost always done, that Bank of England paper could not be depreciated, because it was only issued in discount of legitimate mercantile paper, payable 60 days after date. It is but justice to mention, that Mr. Baring, one of our most extensive merchants, and one of the Bank Directors, publicly ridiculed this idea; and stated, in his place in the House of Commons, ‘that the great mass of the Bank paper was issued *compulsorily* in payment of the public creditor, and in the other great transactions of Government.’\*

It has been contended, and it is the only other argument that deserves the least notice, that the restoration of the *par* of exchange in 1815 and 1816, when the restriction was in full operation, affords a practical and convincing proof that the depression of the exchanges during the war, and the high price of bullion, had not been caused by any over-issue of paper. But this fact leads to a precisely opposite conclusion. It is of no use to tell us, that the exchanges came to *par* while the restriction on cash payments was unrepealed. No person ever contended, that the simple fact of such a law being in existence could have any effect in depreciating the currency. The restriction was condemned, and justly condemned, because it *enabled* the Bank of England to deluge the country with paper. If the Bank had never abused that power, — if the proprietors had sacrificed their own direct, palpable, and individual interests to those of the public, and had constantly kept their paper on a level with bullion, the Restriction Act, though unwise, would, as to consequences, have been the same as if it had never existed. The question is not, therefore, whether the exchange came to *par* while the restriction continued, but *whether it came to PAR while as many notes circulated as in the period of its greatest depression?* If this could be shown, and if it could also be shown that the effective

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\* *Vide* Morning Chronicle, 2d May 1816.



demand for paper had not at the same time increased in a corresponding ratio, the argument would be conclusive; and we should be compelled to admit, that a great comparative increase of paper currency has no tendency to diminish its value, or to render the exchange unfavourable.

But it would be worse than idle to set about proving by argument a fact so notorious as the prodigious diminution of bank paper in 1814 and 1815. In that period above 240 country banks became altogether bankrupt, or at least stopped payment. The Board of Agriculture estimated, that in the county of Lincoln alone, above *three millions* of bank paper had been withdrawn from circulation; and the total diminution of the currency during 1814, 1815, and 1816, has never been estimated at less than *twenty millions*, though it probably amounted to much more. Mr. Horner, the accuracy and extent of whose information cannot be called in question, made this statement on the subject, in his place in Parliament.

‘ From inquiries he had made, and from the accounts on the table, he was convinced that a greater and more sudden reduction of the circulating medium had never taken place in any country than had taken place since the peace in this country, with the exception of those reductions which had happened in France after the Mississippi scheme, and after the destruction of the *assignats*. The reduction of the currency had *originated* in the previous fall of the prices of agricultural produce. The fall had produced a destruction of country bank paper, to an extent which would not have been thought possible, without more ruin than had actually ensued. The Bank of England had also reduced its issues. As appeared by the accounts recently presented, the average amount of its currency was not, during the last year, more than between twenty-five and twenty-six millions; while, two years ago, it had been nearer twenty-nine millions, and at one time even amounted to thirty-one millions. But without looking to the diminution of Bank of England paper, the reduction of the country paper was enough to account for the fall which had taken place.’\*

Here, then, is the true cause of the nominal exchange coming to *par* in 1815 and 1816. Our paper currency was reduced to such an extent, as to become nearly of the same value with the currency of other nations; and this reduction was necessarily attended by a fall in the price of bullion, and a restoration of the *par* of exchange. This fact, therefore, affords the strongest possible confirmation of the correctness of the principles we have been endeavouring to elucidate. For it conclusively shows, that the value of our paper currency which had been depreciated, relatively to that of the contiguous States, was raised to the same level as soon as its quantity had been sufficiently diminished.

On the whole, therefore, it appears to us, that the restoration of cash or *bullion* payments affords the only effectual security against depreciation, and against sudden and pernicious fluctuations in the value of our paper money; and the way in which it would produce these effects is sufficiently obvious; for the run that would then be made on the Bank for specie for exportation, whenever the currency, as compared with that of other countries, had become redundant, would very quickly compel the Directors to limit their issues, and consequently to raise

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\* *Vide* Morning Chronicle, 2d May 1816.



the value of their paper. An extremely small profit is sufficient to set the bullion merchants, and a still smaller one to set the melters of the coin, to work: and therefore the value of a paper currency, convertible at pleasure into a *given quantity* of the precious metals, can never differ considerably from their value in the country where it is issued; and all the difference that can take place in the value of gold and silver currencies, among nations trading together, will generally be limited to the expense of the transfer of bullion from the one to the other. If it exceeds this sum, an inducement to importation is held out; — if it is less, it will be profitable to export; and, in either case, the equilibrium of value will be very soon attained.

A currency would be in its most perfect state if it consisted wholly of paper money — but of paper money of an equal value with the gold or silver which it professed to represent. The use of paper instead of gold substitutes the cheapest in room of the most expensive material, and enables the country, without loss to any individual, to exchange all the gold which it before used for this purpose for raw materials or manufactured goods, by the use of which both its wealth and its enjoyments are increased. But before proceeding to point out the means by which Mr. Ricardo has shown, in the admirable pamphlet before us, that paper may be sustained on a par with gold, and made convertible at pleasure into that metal, without requiring the circulation or coinage of any quantity of gold, we shall offer a few remarks on the expense of a currency consisting of the precious metals.

Mr. Whitmore, the Governor of the Bank of England, stated to the Bullion Committee, that in his opinion, the quantity of gold coin in circulation for the three years previous to the Restriction, amounted to about *twenty millions*; and, although the data from which all such estimates are framed must necessarily be very imperfect, yet we think the history of the coinage affords good grounds for supposing that Mr. Whitmore has, in this case, come very near the truth. Now, as there is no reason to imagine that the real value of gold, or the cost of its production, has increased since 1797, it may be concluded, that if the Bank of England were now obliged to exchange its notes for guineas or sovereigns, the same quantity of them would in a short time be again in circulation. On this supposition, therefore, and we are sure it is very far from being exaggerated, *twenty millions*, or the value of *twenty millions*, would have to be withdrawn from the productive capital of the country, and employed in expediting those exchanges, for which, if its value could be otherwise sustained, *ten or twenty thousand pounds* worth of engraved paper would suffice. Neither would this immense sum be merely abstracted from the great work of production — it would be perpetually diminishing. The loss of the coins from ordinary tear and wear, rubbing, filing, shipwrecks, &c., occasions a permanent annual expenditure, to which must be added the expense of mintage, and the loss which arises to the State from the melting of the coins, consequent on any sudden rise of the market price of bullion, or of any considerable fall in the exchange. The interest of the capital of *twenty millions*, including these different additional charges, cannot be estimated at less than 10 per cent., or *two millions* sterling per annum. Or, in other words, the rendering bank notes exchangeable at the pleasure of the holder for coined gold or silver would cost Great Britain, exclusive of the loss arising from the locking up of capital in the coffers of the Bank, not less than *two millions* annually;

and, including Ireland, the cost would not be less than two millions and a half or three millions.

It is to no purpose to contend that this loss would fall on the Bank, and that its only effect would be to lessen the profits of that establishment. The wealth of the state is made up of the wealth of individuals; and if the Bank Proprietors were not obliged to employ twenty or thirty millions in the purchase of gold, they would employ it in some other way,—in the cotton or woollen manufacture, in the construction of docks, warehouses, &c., or in such a manner as would be productive of wealth to themselves and also to the community. We certainly think that the public ought directly to participate in the profits to be derived from supplying the nation with money. But as it cannot be denied that the wealth of the Bank Proprietors is essentially national wealth, and as whatever has a tendency to increase their fortunes, without diminishing those of others, must be so far advantageous, we do not think that the mere circumstance of the expense of providing a gold currency falling on them only ought to be held as any valid reason for declining to adopt every expedient for diminishing that expense. Besides, it is not true that the expense of a gold currency would, in these circumstances, fall entirely on the proprietors. As the law now stands, the whole expense of coinage, amounting annually to a very considerable sum, is paid by the State; and when it becomes necessary to call in the coin in circulation, the difference between the value of the old money brought to the mint to be recoinced, and the coins of full weight which are given in exchange for them, falls altogether on the public.

This is by no means a trifling sum. The total expense of the great silver recoinage in the reign of William III., including the sum paid by the public to make up the deficiency in the weight of the old money, amounted, according to the estimate of the late Lord Liverpool, to 2,703,164*l.*\*; and the expense of the gold recoinage in 1774, 1775, 1776, and 1778, including, as above, the sum paid to compensate deficiencies of weight, to 517,320*l.*† The expense of the late silver recoinage amounted, notwithstanding the reduction in the weight of the coins, or the exacting of a seignorage of about 6 per cent., to 500,992*l.*; and this, as well as the other sums, are exclusive of the annual parliamentary grant to the Master of the Mint for conducting the ordinary business of that establishment. This grant has of late years rather exceeded 15,000*l.*‡

If, therefore, the Restriction Act should now be repealed, and the Bank of England obliged to pay its notes in gold coin at the pleasure of the holders, it would be necessary to purchase from twenty to thirty millions worth of gold bullion. And the loss attending the abstraction of so great a sum from the productive industry of the country, added to the expense of coinage, and the annual charge that must afterwards be occasioned by the tear and wear of the coins, ought certainly to induce us to adopt any other system which, at the same time that it would afford our antient security against fluctuations in the value of paper money, by constantly keeping it on a par with gold, would save almost all this expense.

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\* Liverpool on Coin, p. 75.

† Ruding's Annals of the Coinage, vol. ii. p. 495.

‡ Lord Liverpool states the total expenses of the Mint, from 1777 to 1803 inclusive, at 488,441*l.*— See his Treatise on Coin, p. 156.



Mr. Ricardo's contrivance for accomplishing this desirable object is equally simple and effectual. It consists in making bank notes exchangeable for bars of assayed bullion, of the standard purity, at the mint price of 3*l.* 17*s.* 10½*d.* an ounce; or, which is the same thing, Mr. Ricardo proposes that for every sum of 3*l.* 17*s.* 10½*d.* of paper presented to the Bank for payment, it should be obliged to give, not *three guineas* and 14*s.* 10½*d.*, but *an ounce of standard gold bullion*.

'To secure,' says Mr. Ricardo, 'the public against any other variations in the value of the currency than those to which the standard itself is subject, and, at the same time, to carry on the circulation with a medium the least expensive, is to attain the most perfect state to which a currency can be brought; and we should possess all those advantages by subjecting the Bank to the delivery of uncoined gold or silver, at the mint standard and price, in exchange for their notes, instead of the delivery of guineas; by which means paper would never fall below the value of bullion without being followed by a restriction of its quantity. To prevent the rise of paper *above* the value of bullion, the Bank should be also obliged to give their paper in exchange for standard gold at the price of 3*l.* 17*s.*\* an ounce. Not to give too much trouble to the Bank, the quantity of gold to be demanded in exchange for paper at the mint price of 3*l.* 17*s.* 10½*d.*, or the quantity to be sold at the Bank at 3*l.* 17*s.*, should never be less than twenty ounces. In other words, the Bank should be obliged to purchase any quantity of gold that was offered them, not less than twenty ounces, at 3*l.* 17*s.* per ounce, and to sell any quantity that might be demanded at 3*l.* 17*s.* 10½*d.* While they have the power of regulating the quantity of their paper, there is no possible inconvenience that could result to them from such a regulation.

'The most perfect liberty should be given, at the same time, to export or import any description of bullion. These transactions in bullion would be very few in number, if the Bank regulated their loans and issues of paper by the criterion which I have so often mentioned, namely, the price of standard bullion, without attending to the absolute quantity of paper in circulation.

'The object which I have in view would be in a great measure attained if the Bank were obliged to deliver uncoined bullion in exchange for their notes at the mint price and standard, though they were not under the necessity of purchasing any quantity of bullion offered them at the prices to be fixed: for that regulation is merely suggested to prevent the value of money from varying from the value of bullion more than the trifling difference between the prices at which the Bank would buy and sell, and which would be an approximation to that uniformity in its value which is acknowledged to be so desirable.' †

That this plan would realize every one of these advantages, and that it would place our currency on a better footing than at any former period, cannot, we think, be disputed. In a sound state of the currency, or when bank notes are exchangeable for gold, should the Bank issue too much paper, so as to depress its value below the value of the

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\* 'The price of 3*l.* 17*s.* here mentioned is, of course, an arbitrary price. It might be fixed either a little higher or a little lower. In naming 3*l.* 17*s.*, I wish only to elucidate the principle.'

† *Economical and Secure Currency*, p. 25.



standard, then, as the holders of paper money would make a profit by exchanging their paper for gold, there would be a run upon the Bank, and it would be compelled to restrict its issues in order to raise the value of its paper. This was the way in which the value of paper was sustained previously to the Restriction; and the same check would operate in precisely the same manner if the Bank were now obliged to give bullion instead of coined gold for its notes. As a device for preserving paper on a par with gold, Mr. Ricardo's plan is, in some material respects, infinitely preferable to the old method of exchanging notes for coins. When a currency consists partly of paper and partly of the precious metals, any over-issue of the former depresses, not merely the value of the paper money, but of the coins which circulate along with it. These coins are, therefore, immediately converted into bullion; for it is admitted on all hands that laws prohibiting the melting of coined money become, in such circumstances, quite inoperative. Bullion, however, cannot be accumulated in any one country without losing its relative value; and hence the ultimate effect of an over-issue of bank paper, in a country whose currency partly consists of gold coins, is an exportation either of coin or of bullion formed out of the coin. But on Mr. Ricardo's system, as there would be no coin in circulation, there would be no employment for the melters, and no loss thereby occasioned to the State. As soon as the bullion merchants found that a profit might be made by sending notes to the Bank to be exchanged for bullion, they would do so; and, as the exportation of bullion would be perfectly free, there would be no occasion to hire a starving wretch to swear that a bar formed from melted guineas had been made up of foreign coin. The value of our currency would not, as formerly, be sustained by the underhand agency of the most worthless of characters, — the melters and clandestine exporters of coin.

As the maintaining of paper on a par with gold, at the least possible expense to the country, and with the least inconvenience to all parties concerned, is the great object to be effected by Mr. Ricardo's scheme, there does not seem to be any very cogent reason why the Bank should be obliged to give so small a quantity as twenty ounces of bullion in exchange for a proportionable quantity of their paper. It would save a great deal of trouble, or at least obviate a great deal of cavilling, were the *minimum* quantity of bullion which could be demanded from the Bank fixed at 500 or 1000 ounces; and as, according to the plan in question, the value of paper would be prevented from falling below or rising above the value of gold, by the operations of respectable bullion merchants, a class of men remarkable for their shrewdness and generally possessed of large capitals, this regulation, while it would be productive of benefit to the Bank, would not, in a public point of view, be attended with any ill effects.

Though it is certainly against the interest of the Directors of the Bank greatly to reduce their paper, still it cannot be denied, even by those who contend that they have no power indefinitely to add to their issues, that they have the power to *refuse to discount*, and that consequently they have it in their power to reduce the currency to the narrowest limits. Such a power ought not to be entrusted to the State itself, and still less to the managers of any private banking company; for there can be no security for uniformity in the value of the currency, when its augmentation or diminution depends solely on the will of the



issuers. But, under the operation of this system, the Bank would not only be prevented from reducing the value of its notes below the value of bullion, but it would also be prevented from raising them above its value. Should the Directors capriciously limit the quantity of their paper, they would raise its value; and bullion would forthwith be carried to the Bank and exchanged for notes at the rate of 3*l.* 17*s.* per ounce. The minimum quantity to be offered to the Bank in exchange for its paper ought also, in order to save trouble, to be limited to 500 or 1000 ounces. And as it is the interest of the Bank to furnish the circulation with such a quantity of paper as would keep its value from rising above the value of bullion, it could not complain of being subjected to a regulation which would never operate except when its issues had been improperly reduced.

With a paper currency convertible into bullion, the Bank would in a great measure be secured against the ill effects of any sudden panic. — Panics generally operate with the greatest effect on the lower classes, or on the holders of small notes; and it is they that, on such occasions, press to the Bank to demand payment. Extensive merchants and money dealers are aware that no Bank, however wealthy, could retire all its notes in the short space of eight or ten days; and they are also aware that the maintenance of their own credit is intimately connected with the prosperity of the Bank. But such considerations do not influence the holders of small notes; and accordingly we find, that the drain upon the Bank in 1783, and the crisis of 1797, were chiefly brought about by the prevalence of a panic among the retail traders and small farmers. But by fixing the minimum quantity of bullion to be given by the Bank in exchange for its notes at 500 or 1000 ounces, it would not be in the power of the holders of small notes to make any sudden run. Before sending in notes to be exchanged for bullion, meetings would have to be held, and a number of different individuals would have to join together and make a demand in common. A considerable time being thus necessarily required in the adjustment of the preliminary steps of the business, the Bank would be enabled to make the necessary preparations to meet the run; and, what is of still more consequence, since the panic could not, under such a system, operate immediately, it is probable that, by the time preparations had been made for demanding payment from the Bank, it might have altogether subsided. This certainly forms a very strong recommendation of the plan in question; and it is one which was not in the contemplation of Mr. Ricardo.

By lessening the danger to be apprehended from sudden runs, and by preventing all demand for bullion for the purposes of internal circulation except as small change, this plan would enable the Bank to carry on business with a comparatively small supply of bullion in its coffers. In ordinary cases, indeed, no bullion would ever be demanded, unless when the Directors had plainly overstepped the proper limit in discounting; and the country would not only be benefited by the profitable employment of the capital which would otherwise be invested in coin, but it would also be benefited by the profitable employment of the greater part of that capital which, previously to the Restriction, had been locked up in the coffers of the Bank.

Were the plan now proposed adopted, it would only be necessary to make Bank of England notes a legal tender. No alteration would be

required in the law relative to country banks. These would then, as now, be required to pay their notes, when demanded, in Bank of England notes, or in the legal currency of the country.

It appears, therefore, that by this plan of making notes payable in bullion, we should have all the security against fluctuations in the value of the currency that we could possess were the Restriction Act repealed, and bank notes made payable in coined money: while we should be able to realize these advantages, without incurring any part of the expense of a gold or silver coinage, except what might be required to effect small payments below one pound; thereby effecting a saving which, on account of Great Britain and Ireland, cannot be estimated at less than *three millions sterling annually*. And it further appears, that the security of the Bank against the pernicious effects of sudden panics among the holders of its notes would be greatly increased, and that the banking business could henceforth be carried on with a much less amount of unproductive capital.

It may perhaps be objected to this plan, that it would have a tendency to perpetuate the crime of forgery — a crime which has, of late years, increased to such an alarming extent. But it must be observed, that the present engraving of Bank of England notes is so very rudely executed, that there is scarcely a bungling mechanic who cannot imitate them with considerable exactness. That the Bank should, for so long a period, have persisted in issuing notes so very miserably executed, is certainly a good deal extraordinary; but now that the public attention has been awakened to the subject, and since it has been demonstrated, that the utmost severity of the criminal law is unable to deter from the commission of crime, where the temptation is so very great, it cannot be doubted that steps will speedily be taken to remove this stigma from our monetary system. That it is practicable to engrave notes in such a manner as to render their forgery a work of extreme difficulty appears, from the concurring testimony of the ablest artists, to be established beyond all doubt. In America, forgeries used some time ago to be very frequent; but since the bankers have issued notes of a finer fabric, and the engraving of which, without being rendered too complex, is extremely neat and distinct, forgeries have been much less common.

The present prevalence of forgery does not, therefore, afford any ground for refusing to render bank notes payable in bullion. It will not, we presume, be contended, that paper should be entirely banished from circulation; although nothing short of this would be sufficient to secure us against all risk on the score of forgery. In every currency, consisting partly of the precious metals and partly of paper, there will be ample scope for the operations of forgers. Whether ten or twenty millions were added to, or abstracted from, our paper circulation, would not in this respect make any very material difference: since it is certain, that more forgeries have been committed since the reduction of our paper in 1814 and 1815, than in any previous period of equal duration.

Whatever commodity may be adopted as a circulating medium, — whether our currency shall consist of gold, silver, or paper, or of part of each, — it must, in the nature of things, be impossible completely to guard against the attempts of those who may be inclined to issue spurious money. But it does not appear that there would be any greater difficulty, provided proper precautions were taken, in securing



the public against loss from forgery, than from the issuing of base coins; and, considering the many superior and peculiar advantages which must result from the use of a properly regulated paper money, we shall extremely regret if prejudice induce us to resort to a system of less utility.

‘The introduction of the precious metals for the purposes of money may,’ as Mr. Ricardo has justly observed, ‘with truth be considered as one of the most important steps towards the improvement of commerce, and the arts of civilized life; but it is no less true, that, with the advancement of knowledge and science, we discover that it would be another decided improvement to banish them again from the employment which, during a less enlightened period, they had so advantageously performed.’

It now only remains to inquire, whether bank notes ought to be made exchangeable for *gold* or *silver* bullion; and as our previous remarks have already extended to so considerable a length, we shall endeavour to despatch this part of the subject in as few words as possible.

As the value of gold and silver, or, what is the same thing, the cost of their production, is perpetually varying, not only relatively to other commodities, but also relatively to each other, it is impossible arbitrarily to fix their comparative value. Gold may now, or at any given period, be supposed to be to silver as 15 to 1; but were guineas and shillings coined in that proportion, the discovery of either a gold or silver mine of more than the ordinary degree of productiveness, or the discovery of any abridged process by which labour could be saved in the production of only one of the metals, would be sufficient to derange this proportion. As soon, however, as the mint proportion between the different metals ceases to be the same with that which they bear to each other in the market, then it becomes the obvious interest of every debtor to pay his debts in the metal whose mint valuation is highest.

In 1718, in pursuance of the advice of Sir Isaac Newton, the value of the guinea was fixed at 21 shillings; or the value of fine gold, compared with that of fine silver, was estimated in our coinage at  $15\frac{2}{3}\frac{8}{16}\frac{5}{4}$  to 1. But, notwithstanding this reduction, the guinea was still rated at a higher value, compared with silver, than it ought to have been. This over-valuation is estimated by the late Lord Liverpool to have been at the time equal to 4*d.* on the guinea, or to  $1\frac{2}{3}$  per cent.; and as the real value of silver relatively to gold continued to increase during the greater part of last century, this difference, which even in the reign of George I., caused all considerable payments to be made in gold, became afterwards much greater. This error in the mint valuation of gold and silver was the cause that, during the long period from 1718 down to the late recoinage, no silver currency of the legal weight and fineness would remain in circulation. The real value of silver coins relatively to gold coins, which were, equally with the former, made a legal tender by the proclamation of 1718, being underrated, they were no sooner issued than they found their way to the melting pot. None, therefore, but very light coins, remained in circulation; and when, in 1797, the further coinage of silver was forbidden, the silver currency was very much debased. But as this currency existed only in a *limited quantity*, it did not, according to the principle already explained, sink in its current value. Though so debased, it was still the interest of debtors to pay in the gold coin. If, indeed, the quantity of this debased silver coin had been very great, or if the mint had issued such debased pieces,



it might have been the interest of debtors to pay in this debased money ; but its quantity was limited, and it sustained its value ; and gold, therefore, was in practice the real standard of currency.

It is not to be imagined that the act of 1774, declaring that silver should not be a legal tender for any debt exceeding 25*l.*, *unless by weight according to the mint standard*, had any effect in causing the general employment of gold as a circulating medium ; for, as Mr. Ricardo has justly observed,

‘ This law did not prevent any debtor from paying any debt, however large its amount, in silver currency fresh from the mint. That the debtor did not pay in this metal was not a matter of chance, nor a matter of compulsion, but wholly the effect of choice. It did not suit him to take silver to the mint, but it did suit him to take gold thither. It is probable, that if the quantity of this debased silver in circulation had been enormously great, and also a legal tender, that a guinea would have been again, as in the reign of William III., worth 30*s.* ; but it would have been the debased shilling that would have fallen in value, and not the guinea that had risen.’ \*

The absurdity of employing equally two metals as a legal tender for debts, or as a standard of value, was unanswerably demonstrated by Mr. Locke and Mr. Harris, and has been noticed by every subsequent writer ; but so slow is the progress of improvement, that it was not till 1816 that it was enacted, that gold only should be a legal tender for any sum exceeding 21 shillings.

Whether, however, gold should, in preference to silver, have been adopted as the standard of exchangeable value, is a question which is not so easy of solution, and on which there is a great diversity of opinion. Mr. Locke, Mr. Harris, and Mr. Ricardo are decidedly of opinion, that silver is much better fitted than gold for a standard ; while Dr. Smith, although he has not expressed himself explicitly on the subject, appears to think gold ought to be adopted in preference ; and this opinion has been very ably supported by the late Lord Liverpool, in his valuable work ‘ on the Coins of the Realm.’

It would be presumption in us to attempt to decide on a matter respecting which the ablest political economists differ thus widely. We confess, however, that we are inclined to concur in opinion with those who think silver ought to be adopted as the standard. Whatever metal is set apart for this purpose, it will be a very difficult task to preserve the currency from falling into a deranged state if it be not used as well in small as in large payments.

‘ The *integer*,’ says Mr. Harris, ‘ and its several parts, should bear an exact and due proportion of value to each other ; and this would be impossible if they were made of different materials. There must be coins of about the value of shillings and sixpences ; and it would be better if we had some that were still smaller : those sorts of coins are the most frequently wanted, and there is no doing without them. But a coin of a shilling, or even of half-a-crown value, would be too small in gold ; and therefore, at present, gold is much too valuable for a standard of money. And it would be a ridiculous and vain attempt to make a standard integer of gold, whose parts should be silver ; or to make a motley standard, part gold and part silver.’ †

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\* Principles of Political Economy, &c. p. 520.

† Essay on Money and Coins, Part 1st, p. 60.



Silver is also much more steady in its value than gold. Almost all foreign countries have adopted it as their standard; and the demand and supply is comparatively regular; while the substitution of paper as the general circulating medium would entirely remove the great objection against silver,—its being too bulky to be advantageously used in large payments.

Whether gold or silver be adopted as the standard of our currency, that will not in the least affect its total value; for the quantity of metal employed as money, or the quantity of metal for which paper is the substitute, must always be in an inverse proportion to the value of that metal. If gold be continued as the standard, fifteen times less of that metal than of silver would be required; or, which is the same thing, if the denomination of a pound were given to any *specific weight* of gold and silver, fifteen times more of such silver pounds would be required to serve as a currency, or as bullion to exchange for notes,—fifteen to one being about the proportion which gold bears in value to silver. And hence it would make no difference as to the *expense* of a paper currency, to which a subsidiary metallic currency, for the effecting of small payments, should be attached, whether the bullion to be given in exchange for notes, and the subsidiary currency, consisted of gold or silver. But as gold is too valuable, in proportion to its bulk, to be coined into pieces of the value of a shilling or a sixpence, and as it is desirable to have the subsidiary currency composed of the same metal with that for which paper should be rendered exchangeable, silver ought to be adopted as the standard.

If, however, it should be deemed inexpedient to change the standard, it would not be proper to make any alteration on the late act allowing a seignorage of 6 per cent. on the silver coin; as the exacting of this seignorage will, after bank notes have been rendered payable in gold bullion, prevent all risk of the sudden disappearance of the subsidiary currency. Neither, on the supposition that silver were to be assumed as the standard, could there be any valid objection against continuing the seignorage: for, as notes would be exchangeable for bullion, and not for coin, it would not cause any reduction of the standard, while it would have the beneficial effect of preventing the too great multiplication of the subsidiary currency.

But, whatever determination Parliament may come to on this point, we trust the ensuing Session will not be allowed to terminate without some decided step being taken to restore to the country its antient security against fluctuations in the value of money, either by reverting to our old system of cash payments, or by adopting the preferable system which it has been our object to point out and explain. It is essential to the best interests of the nation, that our present disgraceful monetary system should be put an end to. We do not mean by this to throw out any reflection against the conduct of the Directors of the Bank of England. They have used the extraordinary and almost unlimited powers vested in them by the Restriction with a moderation for which they are entitled to the public gratitude, and which could not rationally have been expected from the unrestrained forbearance of any body of men. Still, however, it is certain that, during the twenty last years, fluctuations, of the most ruinous nature, have taken place in the value of the currency. From 1809 to 1815, both inclusive, paper money was depreciated below its value in gold from 20 to 30 per cent. During this period, therefore, landlords whose estates were



let, stockholders and annuitants of all descriptions, and, in short, all classes who could not raise the nominal value of their incomes proportionably to the fall in the real value of money, suffered a real diminution of their incomes, corresponding to the extent of the depreciation. The injustice that, in a different state of things, would have been done to the public creditors, who had lent the country gold, or paper equivalent to gold, by *raising the denomination of the coin*, however gross and palpable, would not have been greater than what was actually done in paying them with this depreciated paper. The depreciation, too, had well nigh put an end to the practice of granting long leases, — a practice to which, more than to any thing else, the high cultivation of the country is to be ascribed. Landlords would not let their farms for 20 or 30 years, when they saw the rapid advance that was every day taking place in prices. The length of leases was generally reduced to half the usual period; and clauses were introduced, giving the landlord a power to resume possession during their currency. Nothing but the prospect of a continued rise of prices, or, in other words, a continued depreciation of paper, could have induced tenants to enter into such stipulations. They were altogether subversive of a sober and steady spirit of industry, and were only fitted for the fictitious state of things in which they were adopted.

But the mischief occasioned by the sudden restriction of the paper currency, and the consequent rapid augmentation of its value, has been still greater than what was previously caused by its increase. It is to this that the late unprecedented destruction of agricultural capital, and the wide-spread misery by which the farming class has been nearly overwhelmed, is chiefly to be ascribed. The first fall in the price of agricultural produce, in the autumn of 1813, and in the early part of 1814, was certainly owing to importations from the Continent. But its fall, in the latter part of 1814 and 1815, was not so much owing to that circumstance, as to the universal reduction of the issues of the country banks, and to the failure of an immense number (about 240) of these establishments. That support on which too many of the agriculturists rested was torn away at the time it was most necessary. Credit fell to the ground, mutual confidence entirely ceased, and the fall of the price of raw produce, as it was chiefly occasioned by a rise in the value of money, was accompanied by a proportionable increase of rent. It was then that all the defects of the fictitious system, on which we had been proceeding, became apparent. Thousands, who but a twelve-month before considered themselves wealthy, at once sunk, as if by enchantment, and, without any fault of their own, into the abyss of poverty!

With the exception of the misery occasioned by the destruction of the assignats in France, we do not think that the misery and subversion of private fortunes occasioned by the late sudden reduction of Bank paper in this country has ever been paralleled. Nor was this misery of a temporary or evanescent character. Its pernicious effects will long continue to be felt, not only by individuals, but by the nation at large. During the period in which the depreciation was greatest, the State borrowed several hundred millions. And it will now have this money, which was borrowed when a bank note was not worth more than 14s. or 15s., to pay when its value is at par. All those taxes, too, which were imposed when the currency was thus reduced, must now, though not nominally, be really increased. And it may be questioned,



whether, making allowance for the difference in the value of money, the country was not *less* heavily burdened in 1812 and 1813, than it is at this moment, notwithstanding we have now got rid of the Income-tax and war malt duty.

On every account, therefore, it is of infinite importance that the value of the currency should be rendered as little fluctuating as possible; or, in other words, that the Bank should be obliged to give cash or bullion in exchange for its notes. When a public debt has been contracted, a depreciation of paper induces what is really equivalent to a national bankruptcy. Now, surely it is too much to entrust any corporate body, however respectable, with the power of reducing the national credit to nothing, and of ruining all those living on fixed incomes. But it is still more dangerous to entrust them with the power of enriching annuitants and stockholders, at the expense of the productive classes,—or to arm them with the prerogative of imposing *indefinite taxes*: for they exercise that power most effectually when, by diminishing their paper, and consequently raising its value, they reduce the money price of commodities, and oblige a farmer to sell two quarters of wheat, or a manufacturer two yards of cloth, to pay those taxes for which one had formerly sufficed. Such a power vested in the hands of a body unknown to the constitution, and acting under no responsibility, is perfectly anomalous in a free country, and is altogether subversive of the security of property.

While it is in the power of the Directors of the Bank of England to increase or diminish the currency of the country at their pleasure, no person can form any probable estimate of the value of his property at any period but a little remote. The estate that is purchased to-day, and reckoned a good bargain, may, by the Bank's limiting its discounts, or withdrawing its notes from circulation, be rendered, in a very short time, not worth half the sum paid for it: and, on the contrary, if the Directors were more liberal in granting discounts, and increased the number of their notes in circulation, either by lending to the State or to individuals, the estate might speedily become worth double the money, that is, double the paper it had been sold for. This artificial and unnatural system renders the *money value* of all the property in the empire dependent on the views and opinions—the whims and caprices—of *twenty-four* individuals. It is their fiat alone which makes one transaction good, and another bad. They hold the scale of value, and change its graduation as they judge proper.

The fate that attended the late issue of *three millions* of sovereigns, *not one of which remained in circulation three months afterwards*, will, we should hope, prevent any further attempts to make gold coins of the legal weight and fineness circulate in company with an inconvertible paper. Nothing but rendering bank notes exchangeable for cash or bullion can possibly restore the currency to a sound state. Every other scheme for the accomplishment of this most desirable object will be found completely delusive and ineffectual.\*

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\* Of the articles on the complicated question of the Currency, I have space only for one. Many of those which appeared in the early Numbers of the Edinburgh Review, were written by the late Francis Horner, Esq., one of the clearest and most persuasive reasoners on subjects connected with political economy in modern times. See Vol. i. p. 172. Vol. ii. pp. 101. 402. Vol. v. p. 104. Vol. xvii. p. 339. Vol. xviii. p. 448. Vol. xxxv. p. 468.

## EFFECTS OF RESTRICTIONS ON FOREIGN COMMERCE.\*

It is universally admitted, that a falling off in the foreign demand for British manufactured produce is the immediate cause of the present want of employment, and, consequently, of the low wages of the manufacturers. If the foreign market could not be extended, it is not easy to divine how we could escape from the abyss of poverty and misery into which we are fallen : — but, fortunately, we have this completely in our power. Whatever obstructions the illiberal jealousy of foreign States may have thrown in the way of our intercourse with them, and certainly we have no wish to underrate their importance, there can be no manner of doubt that we have suffered infinitely more from the officious and improper interference of our own Government. In regulating our intercourse with foreign countries, our rulers appear to have entirely forgotten, that *there can be no selling without an equal buying* ; and by endeavouring to prevent the importation of comparatively cheap foreign commodities, for it is such only that either can or will be imported, they have effectually prevented the *exportation* of those which would have been exchanged for them. The time is now come when we must either abandon this exclusive and unnatural system, or submit to be deprived of that widely extended commerce which has hitherto afforded the means of subsistence to so large a proportion of our population, and been the main source of all our wealth and prosperity. The artificial protection which had at first been granted to a few branches of industry has been urged as a valid reason by those engaged in other branches, why they should be placed in the same favoured situation. In this way the restrictive and prohibitive system has at length interfered with the freedom of commerce in almost every department. We could fill half a dozen of pages with the mere names of commodities whose importation is entirely prohibited ; and as many more with the names of those on which duties amounting in effect to a prohibition, and intended to act as such, have been imposed. ‘ Whenever,’ said one of our most accomplished and intelligent merchants, ‘ the assistance of Government is called for by any class of traders or manufacturers, it is usual to make the most splendid display of the importance of that particular branch to the nation at large. The West and East India interests, the ship-owners, the manufacturers, the American merchants, &c. &c. have all made these representations ; but it should be recollected, that it is contrary to sound policy to advance one beyond its natural means, and still more so when that *must* be done at the expense of the others. *If every law of regulation, either of our internal or external trade, were repealed, with the exception of those necessary for the collecting of the revenue, it would be an undoubted benefit to commerce, as well as to the community at large. An avowed system of leaving things to their own course, and of not listening to the interested solicitations of one class or another for relief, whenever the imprudence of speculation has occasioned losses, would, sooner than any artificial remedy, re-*

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\* Observations on the injurious Consequences of Restrictions on Foreign Commerce. — Vol. xxxiii. page 337. May, 1820.



‘ produce that equilibrium of demand and supply which the ardour of gain will frequently derange, but which the same cause, when let alone, will as infallibly restore.’\*

If any thing besides the distress and misery of which it has already been so productive were wanting to induce us to abandon our prohibitory system, and to consent gradually to recur to the sound principle of a free trade, it would be found in the effect which it has had on the policy of other nations. Instead of ascribing the commercial superiority of Great Britain to its true causes—to the comparative freedom of our constitution—the absence of all oppressive feudal privileges, and our perfect security of property, our foreign rivals have re-echoed the sentiments of ministers, and contend that it has resulted entirely from the protection granted to our merchants and manufacturers, and urge our example to stimulate their respective governments to secure them against the effects of British competition. Nor have these applications been without effect. In 1817, the American legislature passed an act, copied to the very letter from our famous Navigation Law, with the avowed intention of its operating as a retaliatory measure against this country; and they have just passed another act prohibiting, under heavy penalties, all intercourse between the United States and the British West India Islands, because, as one of their orators expressed it, ‘ Great Britain would not allow a cock-boat, or any vessel, belonging to an American subject, to enter her colonies.’ Such are the natural fruits of restrictive regulations! It is seldom that a year passes without some complaint from the West India planters about the depression of trade, and the want of a demand for their produce; and yet, by a singular exertion of legislative wisdom, we prohibit American vessels from entering their ports! This would have been all vastly well, had the Americans chosen to pocket the affront. Had they, as our practical statesmen believed would be the case, employed British ships to export the flour, timber, &c. of the United States to Jamaica, and to bring back our sugars, rums, &c. in return, *our shipping interest* would have been materially benefited. But these wise persons unluckily forgot that the Americans had a *shipping interest* as well as ourselves; and we cannot be surprised at their endeavouring to defeat a measure so obviously founded on the worst principles of a grasping and avaricious policy.

It would have been well, had the retaliatory measures of the Americans stopped here. But the Orders in Council and the Non-intercourse Act having for several years nearly put a total stop to the intercourse between this country and the United States, a *manufacturing interest* grew up in the latter. Had the Americans acted wisely, they would have left this *new interest* to depend on its own resources. But, in humble imitation of ‘ the wisdom of their ancestors,’ they immediately set about fostering and dandling the rickety bantling; and, to save it from the effect of foreign competition, increased the duties on imported cotton and woollen goods from  $12\frac{1}{2}$  to 25 per cent. This increase of duty, or, which is the same thing, this addition of  $12\frac{1}{2}$  per cent. to the price of all the cotton and woollen cloths made use of by the American people, not having been found sufficient to protect those rash and im-

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\* Inquiry into the Causes and Consequences of the Orders in Council, by Alexander Baring, Esq., M.P. p. 135.



provident speculators who had engaged in a branch of industry which they must have been certain could only exist by means of a monopoly, Congress have favourably entertained a proposal for making so very large an addition to the present duties as will go far to render them prohibitory! Now, we feel perfectly assured, that nothing but the example of Great Britain could ever have induced the American Legislature to listen for one moment to so monstrous a proposal. The boundless extent of fertile and unappropriated land in that country must, for ages to come, render the raising of raw produce the most profitable species of industry in which her citizens can possibly engage. And any attempt to encourage the premature growth of manufactures, by forcing the investment of a very large proportion of the capital of the country in a less productive employment, must occasion a proportionable diminution of the power to accumulate stock, and of the wealth and riches of the community. But the American *practical statesmen*, (for we have no absolute monopoly of the breed,) without attempting to answer the objections of *speculative reasoners* and *theorists*, content themselves with referring to our example. ‘See,’ say they, ‘to what a pitch of power and of commercial grandeur England has attained; and will she,’ they triumphantly ask, ‘import any one commodity from abroad, if it can be raised at home at four or five times the price it might be bought for from foreigners? Why then should not America profit by this example? and, like England, secure the home market to her manufacturers, by prohibiting the introduction of every species of manufactured goods that may chance to come in competition with her own?’ It is thus that the example of this country is quoted against itself. And most unquestionably, as has been justly remarked by the merchants of London, in their petition to the House of Commons, ‘if the reasoning upon which our restrictions have been defended is worth any thing, it will equally apply in behalf of the regulations of foreign States against us.’

As we owe infinitely more than any other country to commerce, we may be sure that this is, on our part, a very unequal contest.—Nothing indeed but an immediate recurrence to a more liberal system can save us from absolute ruin. A prohibition against the importation of the manufactured produce of other countries, supposing it could be made effective, would, in a country like the United States, only cause a faulty distribution of the national capital, and a less rapid progress in the accumulation of wealth.—But in an overpeopled country like England, where soils of the fourth or fifth degree of fertility are already under cultivation, and where a very large proportion of the population have long been engaged in manufacturing for foreign markets, any considerable falling off in the demand for their produce must be attended with the most disastrous consequences. It is obviously impossible, however, that foreigners can continue to purchase the commodities of any country that will not consent to accept of theirs in exchange. The extraordinary zeal of our practical statesmen to exclude every thing which is not of domestic origin from our markets, would almost induce us to suppose that they are desirous the manufacturers of England should furnish cottons, woollens, and hardware gratis to all the world! But the merchants of Great Britain, like those of other countries, will, notwithstanding the cosmopolitism of their rulers, be actuated in their intercourse with foreigners exclusively by self-interested motives. They will not export a single bale of goods, if they are prevented from



importing an equal or greater value in its stead. And, hence, to whatever extent we prohibit the importation of external commodities, we must in effect hinder, *to precisely the same extent, the exportation of our own manufactures*. But this is very far from being the whole of the mischief occasioned by this pernicious system. No *commercial nation* ever refuses to import the cheap produce of another, without occasioning a much more serious injury to its own subjects than to those of the nation against whom the prohibition was intended to operate. By refusing to import the cheap corn of America, we may perhaps give an inconsiderable check to the cultivation of land in that republic ; but we cannot accomplish this without compelling our artisans to pay a greatly enhanced price for their bread, and without, at the same time, preventing the extension of those manufactures, the produce of which would have been taken in exchange for the corn. It is thus that the exclusive system saps the very foundations of national prosperity. If persisted in, it will assuredly give universality to that pauperism and wretchedness which it has already rendered so very general. Were it carried to its full and proper extent—to that extent to which it has of late made so rapid an approach—it would put an end to all foreign commerce, and even to that carried on between different divisions of the Empire ; for it would not be more absurd to prevent the manufacturers of Glasgow exchanging their muslins for the cattle of Argyleshire, than it is to prevent their exchanging them for the corn of America, or the wines of France.

The state of our intercourse with Norway, Sweden, Russia, Prussia, and Denmark, affords a still more striking proof of the pernicious effects of our present monopolizing system. Previous to 1810, we maintained a very extensive and advantageous traffic with those countries. In 1809, no fewer than 428,000 tons of shipping were employed in conveying timber from the Baltic, and in exporting British manufactured and colonial produce in return ; while, at the same time, more than one half of the iron prepared in Sweden found a ready market in this country. The small progress the Northern nations had made in manufacturing industry, and the demand which a country, circumstanced like Great Britain, must always have for the valuable raw produce with which they abound, would, but for the interference of Government, have occasioned a very great extension of this mutually beneficial intercourse. Instead, however, of meeting with encouragement and protection, or, which would have been much better, instead of being let alone, we have done every thing in our power to destroy it altogether. The *shipping* interest represented to the Board of Trade, that as Sweden and Norway were not quite so distant as Canada, if prohibitory duties were imposed on timber imported from the Baltic, and permission given to import Canadian timber duty free, a greater amount of tonnage, and a greater number of sailors, would be necessary to carry it to this country ! The Right Honourable and enlightened persons to whom this representation was addressed were extremely well pleased with the suggestion : and the Canada merchants having given the scheme their support, ministers forthwith brought in a bill, repealing the duties payable on British American timber, and doubling those on Baltic timber ! But, notwithstanding this enormous increase of duty, the trade with the North was still carried on, though to a comparatively limited extent, till 1813, when an addition of 25 per cent. being made to the duties laid on in 1810, it entirely ceased : and ever since that time, the people of Britain



have been obliged to pay about *twice* the price for timber of the very worst quality, and which is not expected to last above 20 years, that previously sufficed to procure the finest and most durable timber in the world !

But ministers could not, had they been so disposed, stop here. Having gratified the Canada merchants and the shipping interest, by doubling the price of timber, they could not venture to refuse a monopoly of the iron trade to the proprietors of mines in this country. And hence, in order to attract an undue proportion of the national capital to the hazardous and unproductive trade of mining, prohibitory duties were imposed on Swedish and other foreign iron, and this important branch of our external commerce totally suppressed !

This conduct, we must say, is much more akin to absolute insanity, than to mere official drivelling. For the sake of employing a few thousand additional tons of shipping, and of clearing a few hundred acres of a colony, which is of no value whatever to this country, and which, in the course of twenty or fifty years, will be either independent, or a province of the United States, we have deprived ourselves of the revenue afforded by the low duty on Baltic timber,—obliged our builders and manufacturers to pay double prices for inferior fir and iron,—almost entirely annihilated a trade second only in importance to that with the United States,—and occasioned irreparable injury and disgust to our natural friends and customers ! Neither Norway nor Sweden had any other commodities except wood and iron to give in exchange for our produce ; and as we refused to take either of these, they have been absolutely unable to import a single cargo of our goods ; so that we have in fact voluntarily shut ourselves out of a market where we annually disposed of from 800,000*l.* to 1,000,000*l.* worth of commodities ! Russia and Prussia, from being possessed of a greater variety of resources, are still able to maintain a considerable intercourse with us ; though, in those years in which we do not import corn, our exports to them do not exceed a *third* of what they amounted to previous to 1810.

It is, however, to the state of our intercourse with France that the public attention ought to be chiefly directed. At this distance of time, it is of no importance to inquire which of the two countries was the first to fetter and restrict the trade with its most civilized and opulent neighbour. Both parties, we believe, were in this respect equally blameable ; and whichever may have been the first to commence this *felo de se* crusade on the comforts and enjoyments of its own subjects, its measures have been but too well seconded by the other. The wretched effects of such blind and infatuated policy have at length become manifest. Instead of being, what they have been most absurdly and wickedly designated, natural enemies, Britain and France, from their near vicinity, and the extreme variety as well in their raw as in their manufactured products, are especially fitted to maintain an extensive and mutually advantageous intercourse. *It is to France, much more than to either South or North America, or the East Indies, that we should look for new channels of commerce.* We ought to show that we have emancipated ourselves from the disgraceful prejudices by which our ancestors were actuated, when they declared the trade with France a *nuisance*, (Prohibition Act, 1st Will. & Mary) ; and that the experience of a century has satisfied us, that a rich, populous, and



highly-cultivated country must afford a much better market for our products than one that is comparatively poor and miserable.

We do not, however, contend that any preference ought to be given to the trade with France over that with Portugal, or any other country. *Laissez nous faire*, is our maxim. Certainly, however, if any partiality were to be shown, we should have very little hesitation indeed in preferring THIRTY millions of rich customers to THREE millions of poor ones. But, although we do not reap a single advantage from our trade with Portugal which might not be reaped in a *tenfold* greater proportion from a liberal intercourse with France, we desire no obstacles to be thrown in the way of our intercourse with this ‘dear and near ally.’ So far from this, we should be extremely well pleased were those now existing entirely done away, and the duties on port wine reduced to one half their present amount. All that we want is, that the same favour should be shown to the trade with France, and that our manufacturers and merchants should no longer be excluded from the most extensive market in the world merely because a Mr. Methuen, who negotiated a treaty with Portugal in 1703, seems to have been of opinion that this was the best method by which commerce could be promoted! Why should a consumer of claret be obliged to pay 143*l.* 18*s.* per ton of duty, when a consumer of port is enabled to purchase the same quantity on payment of a duty of 95*l.* 11*s.*? And why should as large a duty be levied from the *vins ordinaires* as from those of the first quality? All this appears to us to be pitifully absurd and ridiculous. Government might surely find enough to do without interfering to regulate the drinks of its subjects. The same moderate *ad valorem* duties ought to be imposed on all wines without distinction; and the consumers left to determine for themselves whether port and sherry be really preferable to claret and champagne.

In a former article on this subject (No. 63. Art. III.), we supposed that, were the trade to France thrown open, and silks, wines, cambrics, &c. admitted, on payment of reasonable duties, the British silk manufacture would not be able to stand the competition, and that the capital invested in it would have to be gradually transferred to some more lucrative employment. We are now, however, inclined to think, that even this trifling inconvenience would not be experienced. The greater part of the silk manufactured in France is of foreign growth; but while the French manufacturer only pays an equal duty of about 2*s.* 6*d.* per pound on both raw and thrown silk, the English manufacturer has to pay 5*s.* 6*d.* per pound of duty on the former, and 15*s.* on the latter! No wonder, when such an immense advantage is given to the French, that they should be able to beat us out of the foreign market, and even to smuggle a considerable quantity into this country. But, Mr Ellice, Member for Coventry, one of the principal seats of the silk manufacture, distinctly and explicitly stated, in his speech on Mr. Bennet’s motion for an Inquiry into the State of the Manufacturing Districts, that if Ministers would take off the tax on the raw material, *he would consent, on the part of his constituents, to open the ports for a free trade with France in articles of silk manufacture.* ‘I do not,’ said the honourable gentleman, ‘speak unadvisedly; and I am certain, that in that case ‘this country would at least furnish as much as she would receive.’

It is in vain, therefore, to attempt to set up a clamour about the injury that would be done to the *silk interest*, by throwing open the



trade with France. But, supposing that the silk trade could not be carried on under a liberal system, that would not in the least affect our opinion of the propriety of recurring to the sound principle of unrestricted intercourse. A branch of industry, which can only support itself in the absence of all competition, had much better be abandoned. Neither the French nor the Spaniards would send us their silks, wines, brandies, &c. gratis: and the capital and industry which is now employed in the production of such commodities as would, under a different system, be imported from abroad, would then be devoted to the production of the articles which foreigners would not fail to require as an equivalent. It is obvious, therefore, that the abolition of all restrictions and prohibitions whatever would prodigiously augment the productive energies of the country. As long as we co-operate with nature, we cannot be undersold by foreigners. And if, instead of absurdly endeavouring to raise at home what might be more cheaply imported from abroad, we were to employ our capital and industry exclusively in those branches in which our insular situation, our inexhaustible supplies of coal, and our improved machinery, give us a natural and real advantage, we should be secured against those injurious revulsions and changes in the ordinary channels of trade, which, in a fully peopled and highly manufacturing country, never fail to occasion the most wide-spread misery and distress. ‘Lorsque nous condamnons nos terres à nous donner ce qu’elles produisent avec désavantage, aux dépens de ce qu’elles produisent plus volontiers; lorsque nous achetons fort cher ce que nous payerions à fort bon marché si nous le tirions des lieux où il est produit avec avantage, nous devenons nous mêmes victimes de notre propre folie. *Le comble de l’habileté est de tirer le parti le plus avantageux des forces de la nature; et le comble de la démente est de lutter contre elles; car c’est employer nos peines à détruire une partie des forces qu’elle voudroit nous prêter.*’\*

‘Commerce,’ to use the words of another able writer, ‘is an exchange of equivalents — a bartering between nations of one commodity for another. It is self-evident, therefore, that if we were to adopt the principle of free intercourse, and to import a considerable quantity of raw or manufactured produce, we should have to export a considerable quantity of something else in order to pay for it. In whatever degree our unrestricted external trade might lead us to receive commodities from other countries, in the same degree it would render those countries customers for our commodities — would promote our manufactures and extend our trade. As air expands in proportion as the surrounding pressure is removed, so commerce flourishes as legislative interference is withdrawn. Whatever natural facilities we may possess for carrying on the several branches of industry, and whatever may be our acquired advantages of skill, capital, and machinery, free intercourse is necessary to give them their most efficient operation, and to allow them scope for their full development. When any given portion of capital can, in England, fabricate a greater quantity of woollens or of cottons than in France, and can in France produce a greater supply of corn or wine than in England, then the absence of all regulation is all that is necessary

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\* Say, *Traité d’Economie Politique*. Ed. 4me, p. 177.



‘ to establish between the two countries an active and mutually beneficial commerce ’\*

It will no doubt be contended, that to throw open our ports to the importation of French commodities, without having previously stipulated that they should at the same time relinquish their restrictions and prohibitions, instead of extending the market for our manufactures, would only drain us of our bullion. But our practical Statesmen need not give themselves much uneasiness on this head. We have neither gold nor silver mines; and whatever additional quantities of bullion might be exported to France must previously have been obtained by an equally increased exportation of some species of our produce to the countries possessed of the precious metals. It is mere error and delusion to suppose it possible to drain any State of its bullion. Gold and silver are never exported *to destroy*, but always *to find their level*. Nor, although the utmost freedom was given to import all sorts of French products, would a single ounce of bullion be sent to that kingdom, unless its real price was higher there than here, and, consequently, unless its exportation was advantageous.

Nothing, therefore, but our own absurd regulations — our being prohibited from purchasing from the French those commodities which we do not raise at home, and with which they could supply us cheaper than any other people, prevents us from maintaining a vastly greater and more advantageous intercourse with that country than with any other in the world. It is completely in our power to open a new and boundless market for our surplus products. We may, if we choose, immediately *double or triple the number of the foreign consumers of British manufactures*. Nor is it at all necessary, in order to bring about this most desirable result, that we should attempt to negotiate a commercial treaty with France. It is extremely probable, indeed, that such an attempt would, at the present moment, prove unsuccessful; and it is therefore fortunate that it is of very secondary importance. All that is required to lay the foundation of a commerce which would give an immediate stimulus to the languishing industry of the country, and of which it is impossible to estimate the future extent, is to consent to act, as a nation, on the same principles which regulate the conduct of every prudent individual — or, which is the same thing, to *buy in the cheapest market*. This is all the *sacrifice* that we are called on to make. The French, we may depend upon it, will not refuse to sell; and as there can be no *selling without an equal buying* — no exportation without a proportional importation — by acting on a liberal system ourselves, we shall not only reap a very great immediate advantage, but shall inevitably compel them to abandon their restrictions.

In supposing that the French would not refuse to *sell*, we pay them, it must be confessed, a compliment which, if applied to this country, would be altogether undeserved. *We* not only refuse to admit French commodities, but we prevent our merchants from exporting those for which there is a very great demand in France! Were it not for the enormous duty of about 70 per cent. with which exported coal is burdened, that article would find a ready market in France. But Ministers having resolved that we should neither drink the wines and brandies, nor clothe ourselves with the silks and cambrics, of our in-

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\* Torrens on the External Corn Trade, 2d ed. p. 296.



genious neighbours, appear to have thought it only reasonable that they, in their turn, should be prevented from warming themselves with our fuel.—We are totally unable to divine any other *reason* for this absurd prohibition. What should we think of the policy of the South Americans, were they to prohibit the exportation of bullion? Yet we believe there is just as good reason to apprehend the exhaustion of the mines of Mexico and Peru as of those of Durham and Cumberland.

This illiberal policy is disadvantageous in many other respects besides being fatal to our commerce. Our open and avowed jealousy of the commercial prosperity of other countries, and the power to which we have attained, excites at once their illwill and their envy; and disposes them as well to manifest an unaccommodating spirit on occasion of any petty quarrel, as to adopt retaliatory measures on our trade. This has been especially the case with France. But, if things were left to their natural course, the connexion between the two countries would be so intimate—the one would constitute so near, so advantageous, and so extensive a market for the produce of the other—that they could not remain long at war without occasioning the most extensively ruinous distress—distress which no government would be willing to inflict on its subjects, and to which, though it were willing, it is probable no people would be disposed to submit. By doing away all restrictions on the trade with France, the two nations would acquire one *common interest*. And we should thus not only cause a prodigiously increased demand for our products, and a proportionable augmentation of the comforts of all classes, but, in a great measure, secure ourselves against the risk of future hostilities. *Les peuples ne s'entrehaïssent jamais*; and we trust the period is now arrived when a selfish and repulsive system of policy will no longer be permitted to

‘ Make enemies of nations who had else,  
‘ Like kindred drops, been mingled into one.’

The late glorious revolution in Spain will not only give additional strength to the cause of freedom in this and every other country; but if we avail ourselves of the opportunity which it presents, it may also be rendered of the very greatest service to our commerce. During the period when Ferdinand was employed in the appropriate task of embroidering petticoats for the Virgin, the Cortes did every thing in their power to promote a free intercourse with this country. No sooner, however, had the Cortes been put down, and the Usurper restored, than our cotton goods were strictly excluded from the Peninsula; and a duty of from 26 to 43 per cent. imposed on the two finer qualities of our woollens, and of 130 per cent. on the inferior qualities. This put an entire stop to the operations of the fair trader.—But there is every reason to hope that the Cortes will again return to their former policy; and that a generous and liberal conduct on our part will be sufficient to give a vastly greater extent to the commerce with Spain.

But it is not in Europe and America only that the abandonment of the exclusive system would give fresh vigour to commerce.—It has been nearly as destructive to our intercourse with the Eastern nations as to that with France and the Baltic. The disadvantages under which our commerce with China is at present carried on have, it is said, impressed even the practical statesmen of the Board of Trade with a conviction of the necessity of making some partial relaxation in the East India Company's monopoly.—But this can be of no material



service. If Government are really desirous that the surplus produce of this country should find a vent in the immense market of China, it is indispensably requisite that the freest scope should be given to competition, and that every exclusive privilege, granted to any particular class of traders, should be done away. It is certain, indeed, that if the monopoly is not entirely abolished, we shall very soon be deprived of the share we at present possess of the China trade.—Notwithstanding every advantage derived from long acquaintance with the Indian seas, and the character and manners of the people, the drawback occasioned by the exclusive system has been so great, that the Americans, whose flag first appeared at Canton so late as 1784, have already completely stript us of all share in the *foreign tea trade*; and, but for the monopoly which the Company have acquired of the home market, they would not be able to send out a single ship. It is not, therefore, a partial opening to the trade with China which can be of any service. All the skill and capital of our merchants would, under a system of perfectly free intercourse, be barely sufficient to enable them to enter into a successful competition with the Americans. It is quite visionary to suppose that we shall be able to regain the ground we have lost if we continue to fetter and shackle the spirit of private adventure. As a proof of the advantages resulting from the freedom of industry, it is enough to mention, that, under all the absurd and teasing regulations about size of ships, places of sale, &c. imposed by the late act for partially opening the trade to Hindostan and the Eastern Archipelago, the private traders have already fairly beat the Company out of the market, and have prodigiously extended our intercourse with these rich and populous regions. Nor is it possible to estimate the addition that would be made to this traffic were the *nuisance* of monopoly completely put down — restraints and shackles of every kind thrown aside — and the vast continent of Asia opened as a field for the unrestricted competition of our merchants.

There are a number of other regulations in our exclusive system equally pernicious and absurd with those to which we have thus directed the attention of our readers; but we cannot spare time at present to specify them. We have already stated enough to show the absolute necessity of abandoning it altogether. When the former sources of our wealth and channels of our commerce have been either dried up or shut against us, and, in consequence, a *seventh* part of the entire population of the Empire plunged in the abyss of poverty, and reduced to the condition of paupers, — it becomes the imperative duty of Ministers to endeavour to open new markets for our manufactures, and to stimulate the natural demand for labour. It has been our object to endeavour to point out how this may be effected; and to show that, by *giving freedom to commerce*, those commodities which are now pent up in our warehouses would meet with an advantageous and ready market. Instead of having too large a supply of manufactured produce, it would be found, were we to consent to relinquish our restrictions and prohibitions, and gradually to recur to the only sound principle on which commercial prosperity can ever be bottomed — that of a perfect freedom of trade — that we might add indefinitely to its amount. The market of the world never has been, and never can be, glutted. The distresses of the manufacturers, as far as they originate in the want of a market, (and this is undoubtedly their principal source,) are entirely a consequence of our own perverse policy — of our refusing to admit



the cheap corn of Poland and America — the timber and iron of the Baltic — the wines, brandies, and cambrics of France — the silks of Spain — the sugars of Brazil, and so forth. Let our rulers renounce this selfish monopolizing system; let them cease to counteract the benevolent wisdom of Providence, which, by giving a diversity of soils, climates, and products to different nations, has provided for their mutual intercourse and commerce; and it may be boldly affirmed, that whatever evils we may in future suffer from our oppressive taxation, and these will be neither few nor small, we shall at least be relieved from those which arise from a deficiency of demand for our commodities.

We have not chosen to encumber this discussion with any inquiry as to the probable effects which a reduction of the present exorbitant duties on French wines, brandies, &c. might have on the Revenue: and this because, in the *first* place, it is proved by universal experience, that a low duty levied from a large quantity is always more productive than a high duty levied from a comparatively small quantity; and, in the *second* place, because, although it were otherwise, the loss of two or three hundred thousand pounds, or even of one million, the whole of the present duty on wine, could not be considered as forming any valid objection to a measure, which would infallibly be productive of such very great advantages, and which is indeed absolutely necessary to save the commerce of the country from ruin.\*

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### INJURIOUS EFFECTS OF EXORBITANT TAXATION.†

IN the present improved state of the science of political economy it is unnecessary to set about proving that a heavy taxation on the principal necessities of life must be extremely prejudicial to the great body of the people — to all who either depend for subsistence on the wages of labour or the profits of stock. This is admitted on all hands; but it has been strenuously denied that these effects can be justly ascribed to the system of taxation adopted in this country. And as it is of the utmost importance, in every inquiry into the causes of the public distresses, that we should have correct opinions on this fundamental point, we shall avail ourselves of this opportunity to premise a few observations on the effects which must in general result from the imposition of heavy taxes on necessities, before examining the nature and operation of the system of taxation to which we are now subjected.

In countries such as the United States, where there is a boundless extent of fertile and unappropriated land, and where no feudal privileges or impolitic restraints fetter the employment of industry or retard the accumulation of capital, the imposition of a tax on a commodity

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\* See an excellent article on Free Trade with France, Vol. xxxii. p. 48., and on the effects of the French Prohibitive System, Vol. i. p. 48.

† Pamphlets on the Poor Laws, — on the Circumstances which influence the Condition of the Labouring Classes of Society, — and on the Rise and Fall of the Manufacturing System of Great Britain, — Vol. xxxiii. p. 159. January, 1820.



necessary for the subsistence of the labourer would not be attended with any very injurious effects. In such countries, both the profits of stock and the real wages of labour are high ; and a considerable revenue might be collected without occasioning any great inconvenience either to the workman or his employer. A little economy would enable the former to save the amount of the tax out of his wages ; and these might be advanced without the rate of profit and the power to accumulate capital being thereby materially impaired. But in all old settled and fully-peopled countries, taxation is infinitely more injurious. The supply of labour being in this case almost always greater than the demand, the real wages of labour are comparatively low ; while, from the necessity of cultivating inferior soils, the profits of stock are also comparatively limited. In a country thus circumstanced, there is obviously very little room for increased economy ; nor can a rise in the price of necessaries,—that is, of those commodities ‘ which the custom of the country renders it indecent for creditable people, even of the lowest order, to be without \*,’—be compensated by an immediate corresponding rise of wages. The labourer is, in this respect, placed in a much more disadvantageous position than either the master manufacturer or capitalist. When a tax is imposed on raw produce, or any species of manufactured commodities, the producers, by limiting the supply, are enabled to raise the price to such a sum as will afford them, exclusive of the tax, the common and ordinary rate of profit on their capital. But this is a resource from which the labourer is in a great measure cut off. He is unable to raise his wages in proportion to the increased price of the commodities he consumes ; and for this obvious reason, that, while the competition for employment, or the number of labourers, continues undiminished, the demand for their services, however much it may be lessened, cannot be increased by the imposition of the tax. The supply of workmen is not like the supply of boots and shoes : it does not and cannot be made to vary with every variation in the price of necessaries or the rate of wages. Whatever degree of stimulus may have been previously given to the principle of population, it is plain that, although the demand for labour should be suddenly contracted, or, which is the same thing in effect, though the proportion of wages to prices should be suddenly reduced, it would, notwithstanding, continue flowing into the market with nearly the same rapidity as before. Nor would the ratio of the increase of population be materially diminished until the misery occasioned by the restricted demand on the one hand, and the increased supply on the other, had been very generally and widely diffused.

The principle, therefore, which has been laid down by Dr. Smith and other political economists, that every direct tax on wages, or on the commodities necessary for the subsistence of the labourer, falls entirely on his employer, must be received with very great modification. Except in the rare case where an unusual demand for labour occurs at the time that a tax is imposed on necessaries, it is impossible that wages should be equally raised. There is, indeed, but too much reason to believe that, in the great majority of cases, a very long period must elapse before any such effect can be produced. In the stationary state of society, or where capital and population are advancing with nearly equal degrees of rapidity, the more powerful operation of the principle

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\* Wealth of Nations, iii. 331.

of moral restraint, or a diminution of the rate at which population had previously increased, is the only way in which wages can be raised. But as this must be the work of time, there is an extreme risk lest the opinions and habits of the labouring class should in the interim undergo a change. When wages are diminished to any great extent, as they are sure to be by every considerable increase of taxation, the poor are obliged to economize; and it is natural to suppose that what was at first forced on them by necessity should ultimately become habitual. It is in this that the great evil of excessive taxation principally consists. Wherever the labouring classes are exposed to long-continued suffering and want, their opinions as to what is necessary for their comfortable subsistence, and the place they ought to hold in society, become degraded. The inadequacy of wages has already compelled the greater part of the people of Britain to relinquish a variety of comforts, and to satisfy themselves with comparatively coarse and scanty fare. And as the necessity for making still further retrenchments does not appear to be at all diminished, it is but too certain, if no means are taken to relieve the overloaded springs of industry, and to stimulate the natural demand for labour, that the ordinary rate of wages will be reduced to such a sum as will barely enable the labouring class to exist and to continue their race. Whenever wages have been reduced thus low, it is true that they can sink no lower; and then, but not till then, the labourer will be beyond the reach of taxation, and every tax affecting the commodities indispensable for his support will be paid by his employer, or, which is the same thing, will directly and immediately fall on the profits of stock.

It is impossible, however, to conceive a more wretched state of society than that in which the bulk of the people are reduced to a dependence on mere necessities. ‘In those countries,’ Mr. Ricardo has well observed, ‘where the labouring classes have the fewest wants, and are ‘contented with the cheapest food, the people are exposed to the ‘greatest vicissitudes and miseries. They have no place of refuge ‘from calamity; they cannot seek safety in a lower station; they are ‘already so low that they can fall no lower. On any deficiency of the ‘chief articles of their subsistence, there are few substitutes of which ‘they can avail themselves, and dearth to them is attended with almost ‘all the evils of famine.’ Nor is this all: — Men placed in such circumstances, and cut off, as they must be, from all hope of rising in the world, naturally sink into a state of indolence and insensibility. They may not be discontented; but it is not in the nature of things that they should be either active or industrious. No man submits to privations and labour but in the hope of obtaining corresponding comforts. Where there is no power there can be no motive to accumulate; and, what perhaps is still worse, where the mass of the people are sunk in the abyss of poverty — where they have no *stake in the hedge* — it is impossible they should feel any great respect for the rights of those who have; and it is but too evident that it is only by the terrors of the criminal law that such persons can be prevented from breaking down those institutions which, however essential to the maintenance of society, must appear to them, not as bulwarks raised for the public benefit, but for the support and protection of a favoured few.

From what has been already stated, it is easy to perceive that the effect of a heavy taxation in depressing the condition of the labouring classes must be very much influenced by the comparative rapidity of



its increase. A slow and gradual increase of taxation, inasmuch as it would not suddenly deprive the lower classes of any considerable portion of their accustomed comforts and enjoyments, would most probably stimulate them to endeavour to preserve their place in society, as much by delaying the formation of matrimonial connexions as by contracting the scale of their expenditure. The last is always a painful resource. To retrograde is not natural to man. The desire to improve our circumstances, and to acquire an increased command over the necessities and luxuries of life, is deeply seated in the human breast, and has been found sufficiently strong to counteract one of the most powerful instincts of our nature. Previous to the commencement of the late French war, the condition of the labouring classes in England was not very different from that of the same class in the United States : the greater facility of providing for a family, which enabled the labourers of America to contract early marriages, and to double their numbers in twenty or four-and-twenty years, without depressing wages, being balanced in England, where the population could not be doubled in less than one hundred years, without degrading the condition of the labourer, by the greater prevalence of moral restraint. It is plain, however, that this greater efficacy of the check on the increase of population, arising from prudential considerations, could not be occasioned by any sudden decrease in the demand for labour in England : it was evidently the result of habits which had been formed in the course of many previous centuries, and which naturally develop themselves in every country as society advances, and as it becomes more difficult to acquire the means of subsistence.

Were the fiat of Almighty Power at once to deprive America of her boundless tracts of fertile and unappropriated land, or to render her population as dense as that of England, the existing habit of early marriages would be productive of incalculable misery. But, on the more rational hypothesis, that the impossibility of being able permanently to provide for the wants of an increasing population, shall *gradually* manifest itself, a corresponding change will be effected in the habits of the people ; and the rate of their increase will be more nearly proportioned to the altered circumstances of the country. Now, it cannot be denied that Taxation, by increasing the cost of commodities, operates in precisely the same way as a deterioration of the powers of the soil, or as any other cause which has the effect of rendering it more difficult to procure a comfortable subsistence ; and therefore its *slow and gradual* increase, by adding to the efficacy of the principle of moral restraint, has a tendency to relieve society of some part of the evils of which it is always productive. But a sudden increase of taxation is unaccompanied by any alleviating circumstance. The mischiefs which it occasions are pure and unmixed. It precludes the possibility of previously changing or modifying the habits of those subjected to its operation. They are immediately forced to relinquish a greater or less proportion of the comforts to which they have been accustomed : and if they ever recover the station from which they must in the meantime be cast down, it can only be after a period of suffering and distress, and after they have been exposed to the hazard of permanent degradation, by losing a proper sense of what is necessary to their comfortable existence.

But a direct tax on wages, or, which is the same thing, on the commodities indispensable for the support of the labouring classes, is not



objectionable on the single ground of its having a constant tendency to degrade their condition in society. Taxation, in every form, presents only a choice of evils. Supposing, which is extremely improbable, that, notwithstanding the suffering and distress occasioned by the imposition of a heavy tax, the sentiments of the people are not degraded, and that an efficient check being given to the rate at which population was previously increasing, wages are in the long run advanced proportionally to the tax; still the condition of society would be altered very much to the worse. The profits of stock would now be diminished in the precise proportion that wages had been increased: for, Mr. Ricardo has demonstrated, that, whatever is added to wages, must be taken from profits; and conversely. Dr. Smith, who was not aware of this fundamental principle, supposed that a heavy taxation on necessaries neither fell on the capitalists nor the labourers, but on the consumers generally; and that it was always in the power of the producers to indemnify themselves for a rise of wages, by enhancing the price of the commodities brought to market. But it is easy to see that no *general* rise of wages can have any such effect. Commodities are in every case bought by commodities; and as a rise of wages must affect, in an equal degree, the producers of every different article, it cannot possibly derange their relative values one with another, or occasion any increase of price.

It appears, therefore, that a slow and gradual increase of taxation, by adding to the efficacy of the principle of moral restraint, has a tendency to raise the rate of wages, and, consequently, to throw the burden from the shoulders of the labourer to those of his employer. But, even in this its least obnoxious shape, it is not easy to estimate all the evils it occasions. A sacrifice on the part of a great proportion of society of all the delights of virtuous love, and of all the endearments of conjugal affection, is indispensably necessary to preserve the inhabitants of a heavily taxed country from sinking into the most abject and helpless poverty: though it is by no means certain that even this sacrifice of the finer feelings and affections will be sufficient to secure them a *proper share* of the necessaries and luxuries of life. The fall of profits consequent on a rise of wages caused by excessive taxation, not only checks the increase of that fund by whose increase the increase of the productive industry of the country must always be regulated, but it has a powerful effect in stimulating its transfer to other countries. The efflux of capital is one of the worst consequences of excessive taxation; and it is one against which it is impossible to guard. The rate of profit has a constant tendency to equalize itself. The same principle which would prevent the employment of capital in Yorkshire, if it did not yield the same rate of profit that might be derived from investing it in Kent or Surrey, regulates its distribution among the different countries of the world. It is true, the difference in the rate of profit must be considerably greater to occasion a transference of capital from one country to another, than from different provinces of the same country. But a comparatively heavy taxation is more than sufficient to occasion this difference. Previous to the late revolutionary contests, the bulk of the capital belonging to the merchants of Holland was vested in foreign countries; and the experience of the last four or five years has shown, that the low rate of profit in this country is enough to counterbalance the risk attending the lending of money even on Prussian security.



It is thus that heavy taxes on necessities become, in the words of Dr. Smith, ‘ a curse equal to the barrenness of the soil, and the inclemency of the heavens.’ Such taxes must necessarily fall either on *wages* or on *profits*. To whatever extent they diminish wages, they must equally diminish the comforts and enjoyments of the largest and most important class in society, and spread pauperism, misery, and crime throughout the country ; while, on the other hand, they cannot diminish profits without occasioning a corresponding diminution of the power to accumulate capital, and without also stimulating its transfer to those countries in which taxation is less oppressive. In the first case, their effect in degrading the condition of society is instantaneously felt ; in the second, it is brought about more slowly and circuitously ; but in both, they are, in the end, nearly equally destructive of the happiness and future improvement of the society in which they have been carried to an inordinate extent.

But, if such be a tolerably correct estimate of the effects of a heavy taxation on the condition of society, we can be at no loss to account for the increase of pauperism since 1793. During this period, the public burdens have been augmented to an extent unknown in any former age or country. No source of revenue, however trifling, and no necessary, however indispensable, not to comfort merely but existence, has been able to elude the grasp of the tax-gatherer. Mr. Pitt, and the subsequent Chancellors of the Exchequer, whatever may be thought of their merits in other respects, must be admitted to have had no equals in the devising of means to divert the greatest possible portion of the wealth of the country into the coffers of Government. It is no exaggeration to affirm, that, with the solitary exception of water, there is not a single necessary consumed in the Empire which is not, directly or indirectly, loaded with a most oppressive impost. Nor has the rapidity of the increase of taxation been less extraordinary than the extent to which it has been carried. For example, the duty on tea, which, in 1793, was only 12 per cent., is now more than *eight* times as much, or 100 per cent. The duty on salt, which amounts (in England) to 15s. a bushel, or to about *thirty* times its natural cost, was *tripled* in 1805. The duty on leather, after being stationary for more than a century, was *doubled* in 1812. And the various duties on sugar, beer, spirits, soap, candles, tobacco, &c., besides the house-tax, window-tax, and stamp-duty, have all been increased in similar proportions. But, in order to show the progress of taxation, it is not necessary to engage in the endless and irksome task of enumerating the different articles on which new duties have been imposed, or the old ones increased. It is sufficient to mention, that the total payments into the Exchequer in 1793, on account of permanent and temporary duties, amounted to 17,674,395*l.* ; in 1804, they had increased to 49,335,978*l.*, or to nearly *three* times their amount in 1793 ; in 1808, they exceeded the enormous sum of 66 millions ; and in 1819, in the fifth year of the peace, they amounted to 47,990,814*l.*, or to very nearly their amount in the eleventh year of the war. During the American war, the revenue, when greatest, never reached the sum of 13 millions !

Had this increased taxation sufficed to defray the entire expenses of the war, however oppressive in the mean time, its reduction on the cessation of hostilities would have enabled the country to avail itself of its many natural advantages, and again to spring forward in the career of improvement. This, however, was very far from being the



case. It appears, from accounts printed by order of the House of Commons, that the *gross* produce of the revenue of Great Britain, for the twenty years, commencing 5th January 1797, and ending 5th January 1817, amounted to the almost incredible sum of 1,290,180,592*l*. But, besides the enormous levies thus compulsorily wrung from the necessities of the poor, and the overburdened revenue of the rich, an additional sum of about 450 millions of real capital was borrowed by Government, and added to our funded and floating debts: and taxation being increased, less with a view to equalize the revenue with the expenditure, than to provide the means of paying the interest of the new loans, it became impossible to make any great reduction in its amount on the return of peace. There have, it must be confessed, been reasoners, and, what is more extraordinary, the race is not yet extinct, who contend, that the debts of the nation are in no way burdensome; because the general wealth is not diminished by the payment of the dividends. But, admitting this to be true, what does it establish? We are inclined to think, that even Mr. Justice Bayley and Mr. Spence would pause before they ventured to maintain, that there is no difference between an individual who lives by his own industry, and one who lives by the industry of others! Society, we admit, is not deprived of the interest which is paid on the public debt; but it has been deprived of the means of paying that interest, — or, in other words, of THE PRINCIPAL of the debt itself. Had the capital which has been borrowed by the State, and expended on the maintenance of those who, if they were annihilated at any given moment, would leave nothing behind them — nothing to represent the immense sums lavished on their support — been retained by its original owners, it would have yielded them a revenue, equal, perhaps superior, to what the stockholders now derive from the dividends; but that revenue, instead of being drawn, as at present, from the earnings of others, would have been furnished by the productive energies of their own stock.

In order to exhibit the effect of loans in diminishing national wealth in a still clearer point of view, let us suppose that a country with *two* millions of inhabitants, and 400 millions of capital, is engaged in hostilities, and that the Government borrows and expends 50 millions of the public stock in military stores, in the embroidery of Hussar jackets, building Kremlins, and such like national objects. — If the ordinary rate of profit were 10 per cent., the annual income of this State previous to the commencement of the war would be 40 millions, and at its close 35 millions. It is plain, however, that this reduced income would in future have to furnish the means of subsistence to the whole *two* millions of inhabitants. And, although it is true that the country is not deprived of the interest of the debt, for that is merely transferred from one class to another, it is no less true that *it is deprived* of the income derived from 50 millions of capital; and that the *productive* power which had formerly fed and clothed an *eighth* part of the inhabitants being for ever lost to the State, they must now depend for subsistence entirely on the exertions of those who, it is probable, could previously with difficulty maintain themselves.

How ridiculous then to contend, that, because the dividends are paid by one class of society to another, the national debt is not disadvantageous! Is it a matter of indifference that the sum of THIRTY-TWO millions — a sum greater than the entire rental of all the land in the empire — must be annually drawn from the pockets of the indus-



trious classes, to support that numerous class of persons whose capitals having been lent to the State are, in consequence, destitute of any other means of subsistence? And, is it at all wonderful that, by thus diminishing the funds which would otherwise have been applicable for the maintenance of labour, idleness and want are multiplied in a tenfold proportion? Far, indeed, from feeling any surprise at the paralysis which is now felt in every branch of industry — at the inadequacy of the wages of labour, and the consequent increase of pauperism and crime — our only wonder is that these evils have not been experienced in a far greater degree. The most sanguine could not have supposed it possible, that about 1700 millions of real capital could have been dissipated in warlike pursuits in the short space of 20 years, without involving all classes in the abyss of bankruptcy and misery, and occasioning infinitely more ruin and mischief than has actually ensued.

That such would have been the consequence had a similar perversion of the funds destined for the support of productive industry occurred in any former period of our history, is abundantly certain. But during the late war, various circumstances, many of which were in a great degree fortuitous, conspired to prevent our feeling the full extent of the sacrifices we were called on to make, and to enable us to sustain, without any great inconvenience, a conflict with the combined force of almost all Europe. The most prominent of these circumstances may be classed under the following heads.

In the *first* place, the last thirty or forty years have been distinguished, above all others, by those stupendous discoveries which have so much facilitated the great work of production, and extended the empire of mind over matter. In 1767, the value of the Cotton goods manufactured in Great Britain did not exceed 200,000*l*. But Sir Richard Arkwright having very soon after (1769) contrived to perform the business of spinning by means of machinery, the consumption, owing to the fall of prices, was so prodigiously augmented, that, in 1787, the value of the manufactured goods was increased to about 7½ millions. Since 1787, the progress of this manufacture has been equally rapid; and the entire value of the various descriptions of cotton goods annually produced cannot now be estimated at less than from 35 to 40 millions! Here then was an immense field for the profitable employment of capital and industry, created as if by enchantment, and which, more than any other circumstance, enabled this country to sustain the burdens imposed during the late contest, and to bring it to a successful termination. It is, however, worthy of remark, that the extensive employment of children of both sexes in one of the great departments of the cotton manufacture has in no inconsiderable degree counterbalanced the benefits of which it was, in the first instance, so productive. We indeed strongly suspect, that the present redundancy of labour has been in no inconsiderable degree owing to this cause. The fall in the real price of labour, occasioned by the increase of taxation, must have been felt as early as 1795 and 1796; but it does not appear, either then or subsequently, to have had any effect in checking the increase of population. That this must have been partly owing to the influence of the Poor Laws cannot be doubted; but we suspect it was owing still more to the *demand for children* in cotton factories. From 1787 down to 1808, a large family in a manufacturing town, instead of being felt as a burden, was rather reckoned an advantage: and the



reduction in the wages of the parents, which, in a different state of society, would most probably have induced them to postpone entering into matrimonial connexions, being in some measure compensated by the greater demand for the labour of their families, the population went on increasing with its former rapidity.

The extraordinary progress of the Cotton Manufacture, therefore, and the demand for youthful labour which it occasioned during the greater part of the war, however it may have contributed to aggravate the public distresses since the restoration of tranquillity, was unquestionably one of the main causes which prevented the bulk of the people from feeling the full effect of the burdens and privations caused by the sudden and excessive increase of taxation. But the development of industry was not confined to the cotton manufacture: and it would perhaps be impossible to name any other department in which some very decided and material improvement has not also taken place. In addition, we enjoyed, during the war, a complete monopoly of the commerce of the world. Our merchants and manufacturers were relieved from all competition. The colonial and manufactured products of England became indispensable to the nations of the Continent: and our exports being in consequence prodigiously augmented, a factitious and extraordinary stimulus was given to the demand for labour.

In the *second* place, the extraordinary depreciation of the currency, during the latter years of the war, must also, by occasioning a proportionable diminution of the public burdens, have powerfully contributed to render us less sensible of the evils attending the constant increase of taxation. In the interval between 1809 and 1815, bank notes were at a discount of from 14 to 28 per cent.; or, which is the same thing, the real amount of the taxes and loans raised during that period was so much less than their nominal amount.

The ascendancy of Bonaparte, too, and the continued convulsions of the Continent, not only rendered it impossible to transfer British capital to any country in Europe, but actually occasioned the transfer of a considerable portion of continental capital to this country. Taxation was thus stript of one of its most injurious consequences. The risk attending foreign investments being too great to be balanced by the higher rate of profit, there was no efflux of stock.

In the *third* place, though it may at first sight appear somewhat paradoxical, it is nevertheless true, that no inconsiderable portion of the factitious and unnatural prosperity we enjoyed during the war resulted from the excess to which the system of borrowing was then carried. When the wages of labour continue stationary, it is a matter of comparative indifference to a master manufacturer, or capitalist, whether he employs his surplus revenue in making additions to his circulating capital, or the fund for paying the Wages of his workmen; or whether he invests it in fixed capital, or Machinery. But, when Wages rise, whether in consequence of a naturally increased demand for labour, or of an increase of taxation affecting necessaries, he will have an instant inducement to employ Machinery in preference to workmen. The reason is obvious—a rise of wages does not affect the proprietor of a machine to the same extent as it affects the employers of labourers.

Suppose, for example, that two manufacturers have each a capital of 10,000*l.*, the one invested in a machine calculated to last *one* year, which, with the additional labour of ten men, is calculated annually to



produce commodities worth 10,500*l.*; and the other appropriated to the payment of the wages of 400 labourers, at the rate of 25*l.* each, the produce of whose industry also sells for 10,500*l.* In this situation, their profits and expenses are equal. But supposing wages to rise one per cent., it is obvious, that while the profits of the proprietor of the *machine* would be only reduced 50*s.*, those of the employer of the *workmen* would be reduced to the extent of 100*l.* But this discrepancy could not continue. Capital would be immediately attracted to the more lucrative employment; and would continue flowing in that direction until the multiplication of machines had obliged the proprietors to sink the price of their commodities, so that they could obtain only the common and ordinary rate of profit. It may perhaps be supposed, that the increased price of labour would prevent machinery from being purchased at its former price; and that, therefore, nothing could be gained by its introduction. It is easy, however, to perceive, that this could not really be the case. The price of a steam-engine or a thrashing-machine is regulated by precisely the same principles which regulate the price of boots and shoes. A rise of wages will lower the profits of stock employed in their construction, as it will lower that of all other stock; but nothing but an increase in the quantity of labour necessary to their production can raise their price.

This is a very important principle; and, while it serves to account for the rapid introduction of machinery, it also enables us more clearly to appreciate the effect of loans on the demand for labour. We believe it might be safely affirmed that a considerable portion of the late loans was obtained by the conversion of fixed into circulating capital; but, without insisting on this point, it is certain that the capital lent to the State would, if it had remained in the hands of the subscribers, have followed the direction imparted to the remainder, and been chiefly devoted to the increase of fixed capital, or machinery. But, although it would thus have contributed to the lasting benefit of the country, it would not have occasioned the same immediate demand for labour. An increase of wages is only an indirect and ultimate consequence of an increase of fixed, but it is a direct and instantaneous consequence of an increase of circulating, capital. The stock expended in the erection of a cotton-mill or a steam-engine would have a much more immediate effect in stimulating the demand for labour were it appropriated to the pay of a regiment. The fixed capital invested in a machine must always displace a considerably greater quantity of circulating capital: for otherwise there could be no motive to its erection; and hence its first effect is to sink, rather than increase, the rate of wages. But the capital which comes into the possession of Government being almost entirely devoted to the support of a numerous body of soldiery, lessens the supply of labour in the market, and consequently raises wages, without clashing or interfering with any of the ordinary branches of industry.

It is with states as with individuals. A fortune of 10,000*l.* or 20,000*l.*, expended in the course of a single year in magnificent fetes, and in maintaining coachmen, valets, liverymen, &c., would occasion a much greater demand for labour, and would conciliate infinitely more of the affection of the neighbourhood to its possessor, than would fall to the lot of the individual who had employed a fortune of equal amount in the construction of a machine fitted to yield a future annual revenue of 500*l.* or 1000*l.* But what would be the relative situation of the parties

at the expiration of the twelvemonth? The capital of the proprietor of the machine would be unimpaired; — he would have the same power as before to support himself in a state of comfortable independence — to give employment to the same number of labourers — and to contribute, as formerly, to the wants of the State; while the spendthrift would be reduced to the condition of a pauper, and the instruments of his dissipation left to seek elsewhere for the means of subsistence. ‘*Les gens,*’ says one of the ablest of the French writers on Political Economy, ‘*qui ne sont pas habitués à voir les réalités au travers des apparences, sont quelquefois séduits par l’attirail et le fracas d’un luxe brillant. Ils croient à la prospérité de l’instant où ils voient l’ostentation. Qu’ils ne s’y trompent : un pays qui decline offre toujours pendant quelques tems l’image de l’opulence. Ainsi fait la maison d’un dissipateur qui se ruine. Mais cet éclat factice n’est pas durable ; et comme il tarit les sources de la reproduction, il est infailliblement suivi d’un état de gêne, de marasme politique, dont on ne se guérit que par degrés, et par des moyens contraires à ceux qui ont amené le dépérissement.*’\*

But, though this prodigious development of the powers and resources of industry, and though the depreciation of the currency and the distracted state of the Continent, prevented taxation from exerting its full effect, and capital from escaping to other countries, still the insatiable rapacity of the Treasury proved more than a match for the united exertions of our merchants, capitalists, and artisans. Instead of the condition of the labouring classes being improved by the admirable inventions of Watt, Arkwright, and Wedgwood, the increase of taxation and the destruction of capital had, long previous to the termination of the war, changed it very much to the worse. We have already seen that, in the course of the twenty years from 1793 to 1813, the poor’s rates had increased from *two* to *eight* millions; whereas, in the whole of the previous part of the century they had only increased from *one* to *two* millions. This of itself is sufficient to show the effect of the privations arising out of the war in depressing the condition of the lower classes. We may further mention that, according to the researches of Mr. Young, to whom we are indebted for much valuable information respecting the rate of wages at different periods, the mean price of labour in Europe, in 1767, 1768, and 1770, was very nearly 1*s.* 3*d.* *per diem*; and he further states its mean price in 1810 and 1811, when wages were at the very highest, at about 2*s.* 5*d.*, being a rise of nearly cent. per cent. on the former. But the price of wheat, according to the account kept at Eton College, during the first-mentioned years was 5*l.* a quarter; and during 1810 and 1811 its price was 110*s.*, being a rise of 115 per cent.; and Mr. Young estimates that butcher’s meat had, in the same period, risen 146, butter 140, and cheese 153 per cent.; being, on an average, a rise of 138½ per cent.; so that wages, as compared with these articles, had *declined* in the interval considerably more than *one third*, or 38½ per cent.; and if the increased cost of tea, sugar, beer, leather, &c., besides the house-duty and window tax, had been taken into account, the diminished power of the labourer over the necessaries and comforts of life would have appeared still greater. How, then, can we be surprised at the excess of poverty and misery which has been experienced since the peace? When all the factitious, exclusive, and unnatural

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\* Say, *Traité d’Economie Politique*, 3<sup>me</sup> ed. p. 230.



advantages we enjoyed during the war were not sufficient to enable us to bear up under the constantly increasing weight of our burdens, it was not to be expected that we should be able to sustain them when these advantages were at an end—when we had been deprived of many branches of commerce we had previously enjoyed, and been exposed to a dangerous competition in every other—when the rise in the value of the currency had really added from 25 to 30 per cent. to the already enormous weight of taxation—and when British capital was permitted to seek, in foreign investments, that beneficial employment it could no longer find at home.

We should, however, form but a very inadequate notion of the extent of the additional burdens imposed on the country during the late war, if we supposed them limited to those which have resulted from the direct increase of taxation. The Monopoly which the agriculturists have obtained of the home market is, if possible, still more pernicious; for it is to this monopoly that the comparatively high price of Corn in this country is to be entirely ascribed. In ordinary years, the price of wheat at Dantzic scarcely ever exceeds 32s. the quarter; and its average price in France and the Netherlands is rather below 40s.; nor has there been any rise of price in France since the Revolution.\* It is clear, therefore, inasmuch as the expense of importing a quarter of wheat from France or Belgium does not exceed 3s. or 4s., that, were it not for the restrictions on importation imposed in 1804 and 1815, we might, in ordinary years, obtain a sufficient supply of this most indispensable of all necessities at the average price of the period from 1770 to 1793, or at about 45s. the Winchester quarter. But, by prohibiting the consumption of foreign corn, unless when the home price exceeds 80s., we have been compelled, in order to supply the wants of our great manufacturing population, to have recourse to soils of very inferior fertility, requiring a comparatively great quantity of labour to yield the same amount of produce; and, in consequence, its price has been raised to nearly double its price previous to 1793, and to more than double its actual price in any other country.

The factitious direction which has thus been given to a very large proportion of the capital and skill of the country would, under any circumstances, have been highly injurious. But it is not of the forcing a vast stock into a comparatively disadvantageous employment, that we have to complain, so much as of the heavy burden which it has entailed on every class of the community,—with the exception of landlords. The total consumption of the different kinds of grain in the United Kingdom, inclusive of seed, has been estimated, apparently on good grounds, at about 40 millions of quarters. Taking it, however, at only 35 millions, it is evident that every advance of a shilling per quarter in the price of corn, caused by the restrictions on importation, is really equivalent, in its effects on the consumers, to a direct tax of 1,750,000*l.*! On many accounts, it would be extremely desirable to ascertain the precise extent of the burden which the Corn Laws have in this manner entailed on the country. But without affecting minute accuracy, to which, on such a subject, it is impossible to attain, we believe we shall be considerably within the mark, if we estimate, with

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\* See article 'Corn-Laws and Trade,' Supplement to Encyclopædia Britannica, and the authorities there quoted.



Dr. Colquhoun, the price of the different kinds of grain annually consumed in Great Britain and Ireland at 73,734,000*l.*\*; and we shall be equally within the mark if we suppose, that, in the event of the restrictions on the trade in corn being abolished, the same quantity of produce might be obtained for *two-thirds* of this price, or for 49,156,000*l.* This statement, we are convinced, is not liable to the charge of exaggeration; and it shows, that the restrictions on the importation of foreign grain are really equivalent to a *tax on corn*, which should yield an annual revenue of 24,578,000*l.*—a tax, it will be remembered, which had no existence in 1793, and which is, of itself, *nearly double the entire expenditure of the Government*, including the interest of the public debt, at that epoch!

We are not left to infer from general principles, however well established, what must be the effect of thus forcibly enhancing the price of the prime necessary of life, and the *chief regulator of wages*. The example of Holland—an example pregnant with instruction—ought to have warned us to abstain from so fatal an experiment. Notwithstanding the laudable economy of its Government, the public debt of that Republic became so enormous, that, in order to raise the sums required to pay the interest, heavy duties were imposed on the most indispensable necessities; and, among others, on flour and meal when ground at the mill, and on bread when it came from the oven. In lieu of a part of these imposts, the country people of Holland paid an annual composition of so much a head, according to the sort of bread they consumed. Those who made use of wheaten bread paid about 6*s.* 9½*d.*, and those who lived on oats, rye, &c. paid proportionable sums.† The consequences were such as might have been anticipated. In a very valuable and authentic Memoir, ‘On the Means of Redressing and Amending the Trade of the Republic,’ drawn up from information communicated by the best informed merchants, by order of William IV., Prince of Orange, and presented to the States-General in 1751, it is expressly stated, that ‘*oppressive taxes* must be placed at the head of the various causes which have co-operated to the prejudice and discouragement of the commerce of Holland: and it may justly be said, that it can only be attributed to those taxes, that the trade of this country has been diverted out of its channel, and transferred to our neighbours, and must daily be still more and more alienated and shut out from us, unless the progress thereof be stopt by some quick and effectual remedy. Nor is it difficult to see, from these contemplations on the state of our trade, that the same can be effected by no other means than a *diminution of all duties*.’‡

It would be easy to add innumerable proofs to those given in the Memoir just quoted, to show that excessive taxation was the real cause

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* Wheat	-	-	9,170,000	quarters, at 70 <i>s.</i> 6 <i>d.</i>	-	£ 32,324,250
Barley	-	-	6,335,000	-	- 37 <i>s.</i>	- 11,719,750
Oats	-	-	16,950,000	-	- 29 <i>s.</i>	- 24,577,500
Rye	-	-	685,000	-	- 43 <i>s.</i> 10 <i>d.</i>	- 1,501,291
Beans and Peas	-	-	1,860,000	-	- 38 <i>s.</i> 10 <i>d.</i>	- 3,611,500
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35,000,000						£ 73,734,291

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† Wealth of Nations, iii. 340.

‡ See p. 27 of the English translation, published in London, 1751.



of the decline of the commercial greatness of Holland. ‘Tel est l’effet,’ says the well informed author of the *Richesse de la Hollande*, published in 1778, ‘du haut prix de la main d’œuvre que le système de l’impôt a produit. Les guerres ont forcé des emprunts, et les emprunts ont exigé des impôts pour en payer les intérêts, ou faire des remboursements. Mais étoit-il indispensable d’étendre les impôts sur *les choses les plus nécessaires à la vie*, sur toutes les denrées de première nécessité? L’augmentation du prix de la main d’œuvre devoit nécessairement suivre de cet direction de l’impôt, et porter avec elle la destruction de la source même de l’impôt.’ And, farther on, he observes, ‘L’augmentation successive des impôts, que les payments des intérêts et les remboursements ont rendue indispensable, a détruit une grande partie de l’industrie, a diminué le commerce, *a diminué ou fort altéré l’état florissant où étoit autrefois la population, en resserrant chez le peuple les moyens de subsistence.*’ \* It is to the same cause — to the rise of wages occasioned by the increased price of necessaries resulting from excessive taxation, that the fall in the rate of profit, and the transfer of Dutch capital to every country in Europe, is to be ascribed. The author of the *Richesse de la Hollande* states, that, in 1778, the capitalists of Holland had above 1500 millions of livres tournois invested in the public funds of France and England, for which, owing to the decline of industry, they were no longer able to obtain any advantageous employment at home.

But the system of taxation which was productive of these fatal effects in Holland was, in reality, much less oppressive than that to which this country is now subjected. For example, a British workman might, if he were permitted to buy his food in the cheapest market, purchase a quarter of wheat for 45s., or at most 50s.; but the prohibition against importation, by raising its price to 80s., has precisely the same effect as if he were obliged to pay a direct tax of 30s. or 35s. on every quarter he consumes; and, averaging the consumption of each individual at *three fourths* of a quarter of wheat, it is really equivalent to a capitation tax of 22s. 6d., or to more than *three* times the sum paid by the people of Holland as a composition for the tax on bread. We feel it to be unnecessary to make any commentary on this statement. It is not contended that there is any thing peculiar in the situation of this country; but, unless such were really the case, must we not conclude, that the same abuse of the taxing and funding system which forced the capitalists of Holland to have recourse to foreign investments — degraded the condition of her labourers — and ultimately stript her of her commerce, fisheries, and manufactures, will be equally fatal in Great Britain? If we do not adopt the advice of the Prince of Orange to the States-General, and *diminish all duties*, we must not flatter ourselves with the vain and delusive idea, that we shall be able to escape the fate of those by whom it was rejected.

It is perhaps impossible accurately to determine the precise portion of the produce of the capital and labour of the productive classes of Great Britain and Ireland drawn from them by means of direct and indirect taxation — by the operation of the Corn Laws — and as contributions for the support of the church, the poor, and other public

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\* *Richesse de la Hollande*, tome ii. pp. 39 and 179.

burdens. We believe, however, that the following estimate will be found to be a pretty near approximation to the truth.

It appears, from the *official* statements given in the Finance accounts for 1818, that the *gross* produce of the revenue of Great Britain and Ireland, for the year ending 5th January 1819, amounted to 64,506,203*l.* Now, if to this sum we add 24,578,000*l.* on account of the unnatural enhancement of the price of corn, and allow for Poor-rates and other county burdens 12,000,000*l.*, and for the Church establishment 5,000,000*l.*, the total aggregate amount of the public burdens may be taken at 106,084,203*l.*

It is much more difficult, however, to ascertain the amount of the National Income, or the sum which remains as rent, profit, and wages, after replacing the capital employed in the great work of production. Dr. Beeke, in his very valuable and elaborate pamphlet on the Income Tax, published in 1800, estimated the income of Great Britain arising from land, labour, professions, and every other source, at 218 millions; and supposing the income of Ireland to be equal to *one fifth* of that of Great Britain, we should have 261 millions as the total income of the Empire. Since 1800, the national income has been considerably augmented, though not perhaps to the extent generally believed. But, assuming that it has in the interval been increased *one third*, or 87 millions, that would give 348 millions as the present income of the United Kingdom. We are satisfied that this estimate is rather over than underrated. It is true, Dr. Colquhoun estimates the value of the *new property* annually produced in Great Britain and Ireland at 430 millions. But new property and income are very different things. The former, besides rent, profit, and wages, includes the sum which must be set apart *to replace the capital* consumed in production. The new property produced by a farmer or manufacturer may be equal to ten or twenty times the value of their incomes; nor is it possible to form any accurate estimate of the income of a country merely from the insulated fact of its new property being equal to such and such a sum. Supposing, however, that the fixed and circulating capital of Great Britain and Ireland are together equal to 2500 millions, (Dr. Colquhoun estimates them at 2647 millions,) and that the annual waste in production is 2 per cent., which is surely a very moderate allowance, that would give 50 millions to be deducted from the value of the new property, in order to replace capital. But this is not the only correction to be made. Dr. Colquhoun's estimate was framed for 1812, when bank paper, or the money in which his valuations were made, was at least 20 per cent. less valuable than at this moment; so that, when both these circumstances are taken into account, it will be found that Dr. Colquhoun's estimate is not materially different from our own.

But on the hypothesis that the present income of the United Kingdom is equal to 350 millions, it is plain that very little less than *one third* of the entire revenue of the industrious classes is swallowed up by taxation, and by the bounty to the growers of corn; or, which is the same thing, every poor man is obliged to labour *two* days out of *six*, not for the benefit of himself or his master, but in order to satisfy the demands of the Treasury; and this in addition to *one-third* of the profits of all fixed capital, such as land, machinery, &c., and of professional incomes devoted to the same purpose! Surely it is unnecessary to seek else-



where for an explanation of the difficulties in which we are involved. No country was ever subjected to such a scourge. Nor can there be the shadow of a doubt that it is owing to the Government claiming for themselves, and allowing or rather forcing the growers of corn to claim, in exchange for their produce, too great a share of the earnings of the industrious classes, that the latter have not enough left to support themselves.

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### EFFECTS OF MACHINERY AND ACCUMULATION.\*

FROM the publication of the 'Wealth of Nations' in 1776, down to the peace of 1815, it appears to have been generally agreed, that the great practical problem of the science of Political Economy resolved itself into a discussion of the means whereby the greatest possible produce might be rendered obtainable with the least possible expense; and that the true measure of the increase or diminution of national wealth was to be found in the extent to which the commodities produced in a given period exceeded or fell short of those consumed in the same period. The principles from which these conclusions were deduced appeared to be almost self-evident and incontrovertible. 'Every man is rich or poor, according to the degree in which he can afford to enjoy the necessaries, conveniencies, and amusements of human life.'† And, as it is conceded on all hands, that these necessities and conveniencies, — whatever effect the institutions of society may have had on their distribution, — must have been *primarily* obtained by labour, it seems impossible to doubt, that the wealth and riches of every country, or, which is the same thing, its supply of necessities and conveniencies, must be augmented whenever the quantity of labour required for their production is diminished. Suppose the labour necessary to produce hats were reduced to a tenth of what it is at this moment, it is plain that the same quantity of labour which is now required to obtain *one* hat would then obtain *ten* hats; and as the great bulk of mankind have only labour to give in exchange for commodities, their condition would, in consequence, be considerably improved. Instead, however, of being confined to one, a similar reduction might take place in the cost of producing *all* commodities; and, if such were the case, it is extremely difficult to perceive how we should not be ten times richer — that is, have ten times more of the necessities and luxuries of life at our disposal.

But, notwithstanding the apparent reasonableness of these conclusions, their correctness has lately been called in question by writers of considerable eminence. Dr. Smith is accused of having mistaken the object of the science. That object, it is now said, is not to facilitate production, but to stimulate consumption. An increase of demand, and not of supply, is stated to be the real desideratum — we are said to produce too much, and to consume too little. And the regorgement which has been felt in almost all the channels of industry since

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\* The Opinions of Messrs. Say, Sismondi, and Malthus, on the Effects of Machinery and Accumulation, stated and examined. London, 1821.—Vol. xxxv. page 102. March, 1821.

† Wealth of Nations, vol. i. page 43.

the peace, added to the extreme difficulty of finding a market for various commodities whose cost of production has been much diminished, has been triumphantly appealed to as a conclusive proof of the soundness of the theory which teaches, that the saving of labour in the production of commodities may be carried too far — that the excess of wealth may be accompanied with all the evils of poverty,—and that a great propensity to save and accumulate capital, or a sudden reduction of taxation, may frequently reduce the population to a state of absolute starvation !

But, whatever truth may be in these novel and extraordinary conclusions, they can derive no support from the distresses in which the productive classes in this country have been involved during the last five or six years. These may be satisfactorily accounted for, on the supposition that they have proceeded from entirely different causes ; from our being suddenly deprived of that monopoly of the commerce of the world we enjoyed during the latter years of the war ; and from the increase in the value of the currency, which has really added from 25 to 30 per cent. to the already enormous weight of the public burdens. We have, in former articles, endeavoured to show, that these have been the principal causes of the comparative embarrassments of the commercial and agricultural classes since the peace. And as it is impossible to deny that they must have exerted a very powerful influence, it is plain the existing distress does not afford any solid presumption in favour of the opinions of Messrs. Sismondi and Malthus, the principal supporters of the new doctrines. They must, therefore, be tried by a different test. And as there is no conclusive experience in their favour, we must endeavour, by the aid of a careful analysis, to ascertain their truth or falsehood.

Before proceeding to examine the objections which have been stated to the continued reduction in the price of commodities caused by the indefinite extension and improvement of machinery, we may observe, that the same objections would equally apply to the continued and indefinite improvement of the skill and industry of the labourer. If the construction of a machine that would manufacture two pairs of stockings for the same expense that had previously been required to manufacture one pair, be in any circumstances injurious to society, it would be equally injurious were the same thing accomplished by an increase of dexterity and skill on the part of the knitters ;—if, for example, the females who were in the habit of knitting two or three pairs of stockings in the week should in future be enabled to knit four or six pairs. There is obviously no difference in these cases. And if the demand for stockings was already sufficiently supplied, M. Sismondi could not, consistently with the principles he has advanced in his late work (*Nouveaux Principes*, tome 2de, p. 318.), hesitate about condemning this improvement as a very great evil — as a means of throwing *half* the people engaged in the stocking manufacture out of employment. The question respecting the improvement of machinery is, therefore, at bottom, the same with the question respecting the improvement of the science, ingenuity, skill, and industry of the labourer. The principles which regulate our decision in the one case must also regulate it in the other. If it be advantageous that the skill of the labourer should be indefinitely extended — that he should be enabled to produce a vastly greater quantity of commodities with the same, or a less, quantity of labour, it must also be advantageous that he



should avail himself of the assistance of such machines as may most effectually assist him in bringing about this result.

In order the better to appreciate the effects resulting from an increase in the manual skill and dexterity of the labourer, or from an improvement in the tools or machines used by him, let us suppose that the productive powers of industry are *universally* augmented, and that the workmen engaged in every different employment can, with the same exertion, produce *ten* times the quantity of commodities as at present: is it not evident that this increased facility of production would increase the wealth and enjoyments of every individual in a tenfold proportion? The shoemaker who had formerly only manufactured *one* pair of shoes a day would now be able to manufacture *ten* pairs. But as an equal improvement had taken place in every other department of industry, he would be able to obtain ten times the quantity of every other product in exchange for his shoes. In a country thus circumstanced, every workman would have a great quantity of his own work to dispose of, beyond what he had occasion for; and as every other workman would be in the same situation, each would be enabled to exchange their own goods for a great quantity, or, what comes to the same thing, for the price of a great quantity of those of others. The condition of such a society would be happy in the extreme. All the necessities, luxuries, and conveniencies of life would be universally diffused.

It may, however, be asked, would the *demand* be now sufficient to take off the increased quantity of commodities?—Would their excessive multiplication not cause such a glut of the market, as to force their sale at a lower price than what would be required to repay the diminished cost of production? But it is not necessary, in order to render an increase in the productive powers of labour advantageous to society, that these powers should always be exerted to the full extent. If the labourer's command over the necessities and comforts of life were suddenly raised to ten times its present amount, (and this would really be the effect of the improvement in question,) the consumption as well as the savings of the labourer would doubtless be very greatly increased; but it is not at all likely that he would continue to exert his full powers. In such a state of society we should no longer hear of workmen being engaged 12 or 14 hours a day in hard labour, or of children being immured from their tenderest years in a cotton-mill. The labourer would then be able, without endangering his means of subsistence, to devote a greater portion of his time to amusement and to the cultivation of his mind. It is only where the productive powers of industry are comparatively feeble—where the labourer has to derive his supplies of food from soils of the fourth or fifth degree of fertility—and where an oppressive system of taxation abstracts a third or a fourth of the produce of his earnings, that he is compelled to make these excessive exertions. High wages are only advantageous because of the increased comforts they bring along with them; and of these, an addition to the time which may be devoted to purposes of amusement is certainly not one of the least. Wherever wages are high, and little subject to fluctuation, the labourers are found to be active, intelligent, and industrious. But they do not prosecute their employments with the same intensity as the miserable wretches who are obliged, by the pressure of the severest necessity, to strain every nerve to the utmost. They are enabled to enjoy their intervals of ease and relaxation; and they do enjoy them.



Suppose, however, that the productive powers of industry are increased ten times; nay, suppose they are increased ten thousand times, and that they are exerted to the utmost, still there is no reason to apprehend any lasting glut of the market. It is true, that those persons who were more industrious than their neighbours might produce commodities which those who were less industrious — who preferred indolence to exertion — might not have the means of purchasing, or for which they might not be able to furnish an *equivalent*. But the glut arising from this circumstance would speedily disappear. The object which every man has in view in exerting his productive powers must be, either to consume the produce of his labour himself, or to exchange it for such commodities as he wishes to obtain from others. If he does the last — if he produces commodities, and offers them in exchange to others who are unable to furnish him with those he is desirous of obtaining, he is guilty of a miscalculation — he should himself *have directly produced them*: and if the government do not interfere to relieve him from the consequences of his error, he will immediately set about changing his employment, and will produce such commodities only as he means directly to consume. It is clear, therefore, that an *universally* increased facility of production can never be the cause of a permanent overloading of the market. Suppose that the quantity of capital and industry invested in every different employment in this country is now adjusted according to the effectual demand, and that they are *all* yielding the same nett profit; if the productive powers of labour be universally increased, the commodities produced will all preserve the same relative value to each other. Double or triple the quantity of one commodity will be given for double or triple the quantity of every other commodity. There would be a general augmentation of the wealth of the society; but there would be no excess of commodities in the market; the increased equivalents on the one side being precisely balanced by the increased equivalents on the other. But if, while one class of producers were industrious, another class chose to be idle, there would undoubtedly be a temporary excess: why, however, would the commodities produced by the industrious class be an excess? Is it not clear that it arises entirely from the *deficient* production of the idle class? It is not a consequence of production being too much increased, but of its being too little increased. Increase it more — make the idle class equally productive with the others, and then they will be able to furnish them with equivalents for their commodities, and the surplus will immediately disappear. It is in vain that Mr. Malthus supposes the existence of an *indisposition to consume*. There is no such indisposition in any country in the world; — not even in Mexico, to which Mr. Malthus has specially referred. The indisposition is not to consume, but to produce. In Mexico, as elsewhere, a man is not entitled to consume the products of the industry of other men, unless he furnishes them with an equivalent; but the Mexican prefers indolence to the gratification which the commodities he might procure in exchange for the produce of his labour would give him. Mr. Malthus has mistaken this indisposition to produce for an indisposition to consume; and has, in consequence, been led to deny the proposition, that effective demand depends upon production.

Mr. Malthus has himself stated, that the demand for a commodity depends ‘on the *will* combined with the *power* to purchase it;’ that is, on the power to furnish an equivalent for it. But when did we hear of



a want of *will* to purchase commodities? The poorest beggar in the kingdom wishes to ride in a coach and six, to be clothed in velvets, and to drink champagne and burgundy. If the will alone could procure the necessaries and luxuries of life, we should all be as rich as Cræsus, and the market would constantly be understocked with commodities. It is the *power* that is the real and the *only* desideratum.—It is the not being able to furnish an equivalent for the commodities they wish to obtain that involves the greater portion of society in want and wretchedness. Increase the power of purchasing, or, which is precisely the same thing, increase the facility of production, and you instantly improve the condition of every individual.

The want of a ready market is undoubtedly the immediate cause of the distresses of the manufacturers and agriculturists of this country. But we deny that this difficulty of finding purchasers for our commodities has been in any degree owing to the increase in the powers of production. On the contrary, it is easy to show, that had it not been for this increase, the market would have been much more contracted than it really is. The want of foreign demand, as it is confessedly not occasioned by a deficient supply of those commodities which our merchants and manufacturers would willingly accept from foreigners in exchange for their products, *must* proceed from one or other of the following causes:—It must either be a consequence of the comparatively *high price* of our commodities, or of the restrictions which have been imposed on the importation of British goods into foreign countries, and on the importation of foreign goods into Britain. Now, it is obvious that, if the falling off in the foreign demand proceeds from the *first* of these causes, it must have been infinitely increased, had the cost of production continued undiminished. If, notwithstanding all the contrivances of our Arkwrights and our Watts, to save labour and expense in the production of commodities, we are still in danger of being undersold by foreigners, it is certain that, without these contrivances, we should not have been able to withstand their competition for a single twelvemonth. It would be not a little inconsequential, first to complain that our goods were too high priced for the foreign market, and then, by way of mending the matter, to declaim against the only means by which their prices could be reduced and the demand increased.

It is not to the general introduction of machinery, but to the factitious and exclusive commercial system that we have adopted, and to the oppressiveness of taxation, that all our distresses are to be ascribed. The inhabitants of Poland, Norway, Sweden, France, China, Brazil, &c. are most desirous to exchange their corn, timber, iron, wines, silks, teas, sugars, &c. for our products. These commodities, too, are peculiarly well fitted for our markets; and, in point of fact, form the very equivalents our merchants would be most anxious to obtain in return for their exports. It is plain, therefore, that the deficient foreign demand for our commodities is not owing to their excessive supply, (for the foreigners are both *able* and *willing* to become their purchasers,) but solely to those prohibitive regulations which fetter and restrict the freedom of exportation and importation. There cannot, it must be recollected, be any *selling* without an equal *buying*. But, as we have peremptorily refused to buy from others those commodities with which they abound, and in the production of which they have some natural advantage, they have not the means of buying from us. The Poles and Norwegians, for example, have nothing but corn and timber to give us



in exchange for our cottons, woollens, hardware, &c.; and as we have peremptorily prohibited the introduction of either the one or the other into our markets, they have been reluctantly compelled to resort to other countries for those supplies of manufactured goods they formerly obtained from England. If we would repeal our own barbarous regulations, — if, instead of forcing our people to build their houses with the inferior and expensive timber of Canada, we were to allow them to use the superior and cheaper timber of Memel and Norway, — and if, instead of forcing soils of the fifth or sixth degree of fertility to yield a scanty and inadequate return for the expenses of their cultivation, we were to import the comparatively cheap corn of Poland and the United States, the foreign demand for our commodities would be astonishingly increased. It is, indeed, completely in our power, by merely adopting a more liberal system in our intercourse with France — by consenting to admit her wines, silks, and brandies, on payment of moderate duties, to *double* or *triple* the number of the foreign continental consumers of British products.

We do not mean to deny that some portion of the commercial embarrassments which immediately followed the termination of the late contest with France arose from a sudden glut of the foreign markets, caused by a too great exportation of British commodities to the Continent, subsequently to the opening of the Dutch ports. But this circumstance will not account for the continued difficulty we have since experienced in finding a profitable vent for our commodities. During the latter years of the war, we completely engrossed the commerce of the world. After the Orders in Council had put an end to the carrying trade of the Americans, the Continental nations could neither procure colonial produce, nor raw cotton, for the purposes of manufacturing. They were in consequence induced, notwithstanding the contrary prohibitions of Bonaparte, to purchase English goods to an unprecedented extent. It was declared, in evidence before the Bullion Committee, that cotton, which sold for 2s. per pound in London, was worth 6s. in Amsterdam, and 8s. in Paris; and that the chief articles of export from this country to the Continent, brought prices there from 50 to 200 and 300 per cent. higher than they brought at home! This evidence, it will be remembered, was given in 1810; and yet, in the preceding year, 1809, we had exported a greater quantity of commodities to the Continent than in any previous season, and nearly as much as we have done in any one year since the peace. But the productive powers of the Continental nations, or, which is the same thing, their *means of furnishing equivalents* for such commodities as they might be desirous of obtaining from foreigners, have unquestionably been increased since that period; and had we adopted a liberal commercial system, they would now have formed a much more extensive market for our commodities than at any former period. Instead, however, of judiciously availing ourselves of these advantages, we chose the very moment when the return of tranquillity had enabled them to become our competitors in various branches of industry, of which we had enjoyed a monopoly during the war, to throw additional difficulties in the way of the importation of corn and other raw products, with which they could have supplied us on the most advantageous terms: and thus, by refusing to accept the only equivalents they had to offer in exchange for our manufactured goods, disabled them from becoming our customers, and did every thing in our power to force them to manufacture for



themselves ! Let us not, therefore, attempt to excuse the drivelling incapacity of our statesmen, by ascribing the difficulties, which are the necessary consequences of their blind and perverse policy, to the admirable inventions of our engineers, and the skill and industry of our artisans. But let us acknowledge, that, had it not been for these inventions, all the difficulties in which we are at present involved, would have been aggravated in a tenfold proportion.

But it has been said, that any relief which we could derive from the adoption of a more liberal commercial system would only be temporary ; that the increased power of production we possess is so vast, that we should ere long glut the market of the world with our commodities ! This, it must be confessed, is rather an improbable supposition. But assuming that our improved cotton machinery could manufacture a sufficient supply of cottons to serve the market of the world, and even to sink their price below the cost of production, what then ? Could this state of things be permanent ? Would not the self-interest of the manufacturers immediately suggest to them the advantage of withdrawing a part of their stock, and employing it in some other species of industry ? After recurring to the sound principle of a free trade, the demand for our commodities would be comparatively *steady*. It would no longer be materially affected by the circumstance of our harvests being more or less productive than ordinary, or by any of those contingencies which now exert so great an influence on our trade. And, if it was found, that, on an average of two or three years, we had not been able to dispose of our cottons, woollens, &c. with a sufficient profit, it would be a proof that their production had been carried to too great an extent ; and as there could be no rational prospect of the demand being speedily increased, manufacturers would not be induced, as at present, to linger in a disadvantageous employment ; and the supply of cottons being diminished, the price would be raised to its proper level.

Still, however, it may be urged, that, under a liberal commercial system, we might not only be able to manufacture too much of one, but of *every commodity* demanded by foreigners. But, admitting that such were the case, still it would not afford any ground whatever for doubting, that an increase of the powers of production would even then be attended with great and unmixed advantage. If foreigners are unable to furnish us with the commodities which we wish to obtain in exchange for the products we have sent abroad, we must relinquish the production of the exported commodities, and directly produce those we intended to import. Now, the real question comes to be,—if a question can be raised on such a subject,—Whether it is advantageous that we should be able to produce these commodities cheaply, or not ? Suppose we want to import, and are ready to pay for, 10 millions of quarters of foreign corn, but that we can only obtain 8 millions, is it possible to doubt, that it would be advantageous to be able to produce the commodities with which we must pay for the 8 millions of quarters, with the least possible expense ? The less the portion of the capital and labour of the country bestowed on the production of the commodities exported to foreign countries, the greater will be the proportion remaining for the production of those which it is necessary to raise at home. If it formerly required the labour of 300,000 men to produce the equivalents necessary to be given in exchange for the 8 millions of quarters of imported corn ; and if, by the use of improved machinery,

or by an improvement in the skill and dexterity of the labourer, the labour of 150,000 is made capable of furnishing the same supply of equivalents, we should have 150,000 hands set free, who would henceforth be employed in assisting to raise the corn and other products which could not be supplied from abroad. Foreign trade is beneficial, because a country, by exporting the produce of those branches of industry in which it has some peculiar advantage, is enabled to import the produce of those branches in which the advantage is on the side of the foreigner. But to insure this benefit, it is not necessary that the *whole* capital of the country should be invested in those particular branches. England can furnish better and cheaper cottons than any other country; but who would therefore contend, that she ought to produce nothing but cottons? If she were able to furnish the same supply of cottons as at present with a tenth part of the capital and labour, is it not plain that her *means* of producing all other commodities would be prodigiously augmented?

But it is contended, that these means would not be put in requisition; and that it is impossible so great a saving of labour could take place in a branch of industry employing a million and a half of people, with any rational prospect of such an increase in the demand for labour in other employments, as would take up the hands that would be thrown idle. As this is an objection on which much stress has been laid, and which has been reproduced in a thousand different shapes, it will be proper to examine it somewhat in detail.

In the *first* place it is necessary to observe, that an improvement which had the effect of sinking the price of cottons nine-tenths,—that is, which enabled one tenth of the capital and labour now engaged in that manufacture to produce the same quantity of commodities, could not possibly have the effect to throw the other nine-tenths out of employment. The demand for cottons, instead of remaining stationary, would, in such circumstances, be very greatly increased. Those who subsist by their labour, and whose command over the necessaries and luxuries of life is always comparatively limited, form an immense majority of the population of every country. And any considerable reduction in the price of a commodity in general request has almost always been found to extend the demand for it in a much greater proportion. This has been eminently the case with the cotton manufacture itself. It would perhaps be impossible to name any branch of industry in which so great an increase has taken place in the power of production; and yet, it is certain that the extension of the market, consequent on every new invention to save labour and expense, has always occasioned the employment of an additional number of hands. Now, there is no reason to conclude that the effect of improvements in time to come will be in any respect different from their effects hitherto. Such a reduction of price as we have here supposed would give our cottons a decided superiority in every market in the world. Foreign states would in vain attempt to prohibit their introduction. Cheap goods are always sure to make their way through every barrier. To use the just and forcible expressions of Sir Josiah Child; ‘*They that can give the best price for a commodity shall never fail to have it by one means or other; of such force, subtilty, and violence, is the general course of trade.*’

But, in the *second* place, we go farther, and contend that the advantages attending the introduction of machinery do not, as Mr. Malthus supposes, at all depend on the market extending in proportion to



the reduction in the price of commodities. They are equally great in cases where no such extension can take place. Were the price of cottons reduced in the proportion of ten to one, at the same time that the demand for them could not be extended, it is certainly true, that nine-tenths of the capital and industry engaged in the cotton manufacture would be thrown out of that employment: but, is it not equally certain, that there would be a proportionable extension of the demand for the produce of *other* branches of industry? The means by which the purchasers formerly paid for the high-priced cottons could not possibly be diminished by this increased facility of production. They would still have the *same capital* to employ, and the *same revenue* to expend. The only difference would be, that *one tenth* of the sum which had previously been required to procure an adequate supply of cottons would now be sufficient for that purpose; and that the remaining *nine-tenths* would be applied to the purchase of some other species of commodities—we say, *would be applied*; for although we may have enough of one particular commodity, it is absolutely impossible that we can ever have what we should reckon a sufficient supply of *all* sorts of commodities. There are no limits to the passion for accumulation.

*Nec Croesi fortuna unquam, nec Persica Regna  
Sufficient animo —*

The portion of revenue that had been set free by the fall in the price of cottons would not be permitted to lie idle. It would unquestionably be applied to purchase an additional quantity of something else. The *total* effective demand of the society would not, therefore, be in the slightest degree impaired. Whatever capital and labour had been disengaged from the manufacture of cottons might be afterwards as profitably employed in the production of those commodities for which there would be an equivalent increase of demand. And after the lapse of such a period as would permit their transfer to these new employments, labour would be again in as great request as ever, while every individual would be able to obtain ten times the former quantity of cottons for the same quantity of labour, or of any other commodity whose value had remained constant.

It has, however, been contended (Sismondi, *Nouveaux Principes*, tome 2de. p. 325,) that when machinery is employed to perform that work which had previously been performed by means of labourers, the price of the commodity is seldom or never diminished to such an extent as to render the reduction of price equivalent to the wages of the labourers thrown out of employment. The invention of machinery, says M. Sismondi, which would produce cottons 5 per cent. below the present prices, would occasion the dismissal of every cotton spinner and weaver in England; while the increased demand for other commodities, occasioned by this trifling saving, would barely afford employment for 5 per cent. or *one twentieth* part of the disengaged hands; so that were an improvement of this kind to take place, the vast majority of these persons must either be starved outright, or provided for in the work-house. But in making this statement, M. Sismondi has neglected one most important element—he has not told us how his machines are to be produced. If, as M. Sismondi has tacitly assumed, the machines cost nothing—if, like atmospheric air, they are the free gift of Providence, and do not require any labour to produce them—then instead of prices falling 5 per cent., they would fall to *nothing*; and every farthing that had formerly been devoted to the purchase of cottons,



would now be set at liberty, and devoted to the purchase of other commodities. But if, by stating that the introduction of new machinery has reduced the price of cottons 5 per cent., M. Sismondi means, as he must do, that 20,000*l.* invested in one of his improved machines will produce the same quantity of cottons as 21,000*l.* employed as circulating capital, or in the machinery now in use; then it is plain that  $\frac{20}{21}$  parts of all the capital formerly employed in the cotton manufacture will now be employed in the manufacture of machinery, and that the other  $\frac{1}{21}$  part will form a fund to support the labourers engaged in producing the commodities for which, owing to the fall of five per cent. in the price of cottons, a proportionably greater demand must be experienced. In this case, therefore, it is plain that, instead of twenty out of every twenty-one labourers employed in the cotton manufacture being turned out of employment, there would not be a single individual in that situation. But as this reasoning proceeds on the supposition that the machines would last only *one* year, M. Sismondi might still contend, that, if they were fitted to last *ten* or *twenty* years, there would be a deficiency of employment. The truth is, however, that the reverse holds good; and that, instead of being diminished, the demand for labour is increased according as the machines become more durable. Suppose profits are at 10 per cent., when a capital of 20,000*l.* is invested in a machine calculated to last *one* year, the goods produced by it must sell for 22,000*l.* viz. 2,000*l.* as profits, and 20,000*l.* to replace the machine itself. But if the machine were fitted to last *ten* years, then the goods produced by it, instead of selling for 22,000*l.*, would only sell for 3,254*l.*, viz. 2,000*l.* as profits, and 1,254*l.* to accumulate as an annuity for ten years, to replace the original capital of 20,000*l.* Thus it appears, that by introducing a machine constructed with an equal capital, which should last *ten* years instead of *one* year, the prices of the commodities produced by it would be sunk to about *one seventh* of their former price. The consumers of cottons would, therefore, by means of their equally increased demand for other articles, henceforth afford employment for *six-sevenths* of the disengaged labourers. But this is not the only effect that would be produced. The proprietor of the machine would have, exclusive of the ordinary profit on his capital, at the end of the first year, an additional revenue or stock of 1,254*l.*, or  $\frac{1}{16}$ th of the value of his machine, which he must necessarily expend in one way or other in the payment of wages; at the end of the second year, this additional revenue or stock would be increased to about  $\frac{1}{8}$ th of the value of the machine; and, in the latter years of its existence, it is plain that, far from having declined, the demand for labour must have very nearly *doubled*.

It appears, therefore, that no improvement of machinery can possibly diminish the demand for labour, or reduce the rate of wages. The introduction of machinery into one employment *necessarily occasions an equal or greater demand for the disengaged labourers in some other employment*. The only hardship which it ever imposes on the labourer is, that in some cases it forces him to change his business. This, however, is not a very material one. A person who has been trained to habits of industry and application can be easily moved from one employment to another. The various subordinate branches of all the great departments of industry have so many things in common, that an individual who has attained to any considerable proficiency in one has seldom much difficulty in attaining to a like proficiency in any other. It is easy for a



weaver of cotton to become a weaver of broad cloths or of linen ; and it would require a very limited degree of instruction to teach the maker of a cart or plough to construct a thrashing machine.

Mr. Malthus, however, is not satisfied with this reasoning. ‘ In withdrawing capital,’ he says, ‘ from one employment, and placing it in another, there is almost always a considerable loss. Even if the whole of the remainder were directly employed, it would be less in amount. Though it might yield a greater produce, it would not command the same quantity of labour as before ; and, unless more menial servants were used, many persons would be thrown out of employment ; and thus the power of the whole capital to command the same quantity of labour would evidently depend upon the contingency of the vacant capitals being withdrawn *undiminished from their old occupations*, and finding immediately equivalent employment in others.’ (*Principles of Political Economy*, p. 404.) Mr. Malthus means by this to state, that, although the effective demand of the society would not be diminished by an increased facility of production — for he distinctly admits that such diminution would not take place — yet, unless the *whole fixed capital* which had been rendered useless by the improvement, could be withdrawn, and invested in some other branch, there would be no means of supplying this demand, or of employing the same quantity of labour as before. But this objection is altogether founded on a mistake, into which it is not a little surprising that so able an economist as Mr. Malthus should have fallen. A manufacturer’s power to employ labour does not depend on the entire amount of his capital, but on the amount of that portion only which is *circulating*. A capitalist who is possessed of a hundred steam engines, and of 50,000*l.* of circulating capital, has no greater demand for labour, and does not employ a single workman more, than the capitalist who has no machinery, and only 50,000*l.* devoted exclusively to the payment of wages. All this portion could, however, be withdrawn ; and, as it is by its extent that the extent of the power to employ labour is always regulated, it cannot be true, that, when capitals are transferred from one business to another, ‘ many persons would be thrown out of employment.’

It cannot, indeed, be denied, that an individual who is obliged to transfer his capital, will lose all the profit he formerly derived from that portion which cannot be transferred. But, is the State to be authorized to prevent the introduction of improved machinery, merely because the old clumsy machinery may be thereby superseded, and the capital invested in it lost ? A few individuals may lose ; but the whole society is always sure to derive a great accession of wealth from the adoption of every device by which labour can be saved. We have already shown, that neither the power nor the will to *purchase* commodities is or can be diminished by an improvement of machinery ; and as the *means of employing labour* depends on the amount of circulating capital which can be withdrawn without loss, it is plain they could not be diminished. The wages of labour would therefore continue as high as before, while the reduction in the price of commodities would enable these wages to exchange for a greater share of the necessaries and the comforts of life. It appears therefore, however much it may be at variance with the common opinions on the subject, that an improvement in machinery is always more advantageous to the labourer than the capitalist. In particular cases it may reduce the profits of the latter, and destroy a portion of his capital ; but it cannot, in any case, diminish

the wages of the labourer, while it must raise their value relatively to commodities, and improve his condition.

We concede to Mr. Malthus that, were the foreign demand for our cottons and hardware suddenly to cease, it might be difficult, perhaps impossible, to find an equally advantageous employment for the capital and labour that would thus be thrown out of employment.— (*Principles of Political Economy*, p. 411.) But although this is certainly a good reason why we should be extremely cautious about adopting such measures as may have any tendency to place our foreign customers in a situation to manufacture for themselves, or to induce them forcibly to exclude us from their markets, we cannot perceive why it should have induced Mr. Malthus to question the advantage of improvements in machinery. It still appears to us, that an increased facility of production would be equally advantageous in a country surrounded by Bishop Berkeley's wall of brass, as in a country maintaining an extensive intercourse with all the principal markets in the world. We can have no motive to induce us to export cottons or other products, except a desire to exchange them for such commodities as we wish to import from abroad. It is possible, however, that foreigners may refuse to give us these commodities in exchange for our cottons and hardware; and it is plain, that, in such a case, we must either offer them some other commodity, which they may be disposed to accept as an equivalent, or if that be impossible, we must ourselves set about producing the commodities we wish to obtain. Now, supposing that we are compelled to have recourse to this latter alternative, and that, instead of importing the wines of Portugal, the sugars of the West Indies, and the corn of Poland, we are obliged directly to produce these or equivalent articles at home, is it possible to doubt that it would be of the greatest advantage were we to discover processes whereby we might be able to obtain them, or their substitutes, as cheap or cheaper than before? Mr. Malthus has indeed said, that there are no grounds for supposing that such an improvement could take place;—and we are not disposed to quarrel with him about this opinion. But the question is not whether the improvement can be made, but whether, *if made*, it would not be greatly and signally beneficial?—and whether every approach to it be not advantageous?

If the arts were equally advanced in different countries, commodities would invariably be found to be cheapest and most abundant in those which had the most extensive intercourse with foreigners. A commercial nation is enabled to avail itself of *all* those natural facilities for producing particular commodities which Providence has bestowed on different countries; and can, of course, command them at a much cheaper rate than if it were forced to raise them at home. But the natural disadvantages against which a country without commerce has to struggle may be either partially or entirely overcome by a comparatively rapid progress in the arts. Substitutes may be found for such commodities as it is impossible directly to produce, while, in the production of others, improvements in the skill and industry of the labourer, and in machinery, may more than counterbalance the disadvantage of an inferior soil and an unfavourable climate. It is plain, therefore, that such inventions as facilitate the great work of production, instead of being less, as Mr. Malthus would have us to believe, are always more advantageous in countries destitute of foreign commerce. The discovery of a process which should enable us directly to produce as good



and as cheap claret as can be imported from France would not, in the present state of the intercourse between the two countries, be of any considerable service. But were a stop put to this intercourse, were we excluded from those markets in which claret is to be met with, the invention would become of the greatest utility. A thousand such instances might be given; and in every case it would be found, that the value of the invention would be so much the greater, according as the power to resort to foreign markets was diminished.

Thus it appears, that the utmost facility of production can never be injurious, but must always be attended with the greatest advantage. Too much of one particular commodity may be occasionally produced; but it is quite impossible that there can be too great a supply of every commodity. For every excess there must be a corresponding deficiency. The fault is not in producing too much, but in producing commodities which do not suit the tastes of those with whom we wish to exchange them, or which we cannot ourselves consume. If we attend to these two grand requisites, we may increase the power of production a thousand or a million of times, and we shall be as free of all excess as if we diminished it in the same proportion. Every person in possession of commodities is qualified to become a demander. Supposing, however, that, instead of bringing them to market, he chuses to consume them himself, then there is an end of the matter; and it is evident that the multiplication of such commodities to infinity could never occasion a glut. But he does not consume them himself—he wishes to obtain other commodities, and he offers them in exchange. In this case—and in this case only—there may be a glut; but why? Not certainly because there has been an excess of production, but because the producers have not properly adapted their means to their ends. They wanted, for example, to obtain silks, and they offered cottons in exchange for them: the proprietors of the silks were, however, already sufficiently supplied with cottons, and they wanted broad cloths. The cause of the glut is therefore obvious: it consists not in over-production, but in the production of cottons which were not wanted, instead of broad cloths which were wanted: let this error be rectified, and the glut will disappear. But, it may be said, the proprietors of silks are not only supplied with cottons, they are also supplied with cloth, and with every other commodity that it is in the power of the demanders to produce! In answer to this, it would perhaps be sufficient to state, that it is extremely improbable, or rather impossible, that such a case could really occur in a commercial nation. We do not however wish to shelter ourselves under this cover, or to avoid grappling with the objection in the most formidable shape in which it can be put. We admit the possibility of such a case occurring; but we deny that it affords the shadow of a reason for doubting the truth of the principles we have been endeavouring to establish. If those who want silks cannot obtain them in exchange for broad cloths, and such commodities as they are possessed of, and which they do not want, they have an obvious resource at hand—let them abandon their production, and *directly produce the silks* which they do want. It is always in their power to do this, or to produce substitutes: and we have shown that in shifting employments, all that portion of capital which is appropriated to the support of the labouring class may always be transferred without the smallest loss. In no case therefore, whether the country has or has not an intercourse with its neighbours, or whe-



ther the market for commodities can or cannot be extended, can the utmost facility of production ever be attended with the slightest inconvenience. We might with equal truth pretend that an increased fertility of soil and an increased salubrity of climate are injurious! It is the *wrong application* of productive power, the *improper adaptation* of means to ends, that is in every case the specific cause of gluts. But it is plain that the real and only effectual remedy for this evil must be found, not in the adoption of measures calculated to raise the price of commodities, but in having recourse to a liberal and enlightened system of policy. Were we gradually to recur to the sound principle of a free trade, and to renounce every attempt to foster and encourage one branch of industry rather than another, the chances of an injudicious production would be very greatly diminished, and, when it did occur, it would be much sooner rectified. Hitherto, when too much capital has been attracted to one branch of industry, instead of leaving it to be adjusted according to the effective demand, the State has generally interfered to prevent the restoration of that natural equilibrium of profit and of production which the ardour of speculation may sometimes derange; but which, when left to itself, it will as certainly restore. It is to this interference on the part of the government — an interference which M. Sismondi is perpetually invoking — that nine-tenths of the gluts which now occur may be traced. The restrictive and prohibitive system has wrenched society out of its natural position. We have placed every thing on an insecure basis. Our corn laws, for example, by raising the average price of corn in this country to double its price in every other country, prevents all exportation in a year of unusual plenty until the price has sunk 100 or 150 per cent. below the cost of production, and until the agriculturists have been involved in the extreme of misery and ruin. Such is universally the case. Every factitious stimulus, whatever may be its momentary effect on that department of industry to which it is applied, is immediately disadvantageous to others, and ultimately ruinous to itself. No arbitrary regulation, no act of the Legislature, can possibly add one single farthing to the capital or the industry of the country; it can only give it a faulty and unnatural direction. Besides, after a sufficiency of capital has flowed into these new channels, a re-action *must* commence. There can be no foreign vent for their surplus produce; and whenever any change of fashion, or fluctuation in the taste of the home consumers, occasions a falling off in the demand, the warehouses are sure to be filled with commodities which, in a state of freedom, would never have been produced. The ignorant and the interested always ascribe such gluts to an excess of productive power. The truth is, however, that they conclusively indicate its diminution; and that they are the necessary and inevitable result of the application of those poisonous nostrums by which the natural and healthful state of the public economy is vitiated and deranged.

The other division of our subject will require but a comparatively brief discussion. Having shown, we trust satisfactorily, that an increased facility of production must, in every case, be advantageous, it is comparatively easy to show, that an increase of the funds for supporting labour — that is, that a saving of expense, and an increase of capital, must also be advantageous.



In order to demonstrate the advantage derived from his ‘unproductive consumers,’ Mr. Malthus assumes, that ‘the consumption and demand occasioned by the persons employed in productive labour can never alone furnish a motive to the accumulation and employment of capital.’ (*Principles*, &c. p. 352.) Now, as it is admitted, on all hands, that the revenues of the unproductive classes must, in every case, be derived directly or indirectly from the revenues of those who produce, the proposition laid down by Mr. Malthus really amounts to this, that were the whole produce of industry to belong to the labourer and his employer, society would never make any progress; that, in such circumstances, it would be impossible for either the one or the other to accumulate capital; and that, before accumulation can take place, it is necessary that an interloper — a person who has not assisted in the raising of the produce — should be enabled to appropriate a considerable portion to himself! This, we can assure our readers, is no forced construction. It is the necessary and the only inference that can be deduced from the principle stated by Mr. Malthus. If it did not lead to this conclusion, it could give no support to his theory.

Had Mr. Malthus said, that the consumption and demand of the workmen *employed in the production* of commodities could never, in the event of their getting the *whole to themselves*, be a sufficient motive to induce capitalists to accumulate or employ stock, he would have been perfectly correct. Still, however, it puzzles us to conjecture how this unfavourable state of things could have been at all improved by the circumstance of a third party — of a tax-gatherer, we presume, — who had not assisted in the production, being permitted to abstract a portion of the proceeds. But this is foreign to the subject. The question is not, whether accumulation can take place when the labourer gets the *whole produce of his labour* — for, in that case, it is admitted by all economists that it could not — but whether it can go on when *he, and he alone*, shares it with his employer? Now, in this case, it is certain that it could. Suppose the labourer gets four-fifths, his employer would retain the other one-fifth, which he could either consume himself, or add to his capital, and with which, if so added, he would be able to employ additional labourers next year. It is clear to demonstration, that the society might go on in this way, making constant additions to its capital, and employing a constantly-increasing number of labourers, provided only that population were augmented in the same proportion. If it did not increase so rapidly as capital, wages would rise; and the labourers, instead of getting four-fifths or 80 per cent., might get nineteen-twentieths or 95 per cent. of the produce of their industry. In a community consisting only of capitalists and labourers, where there was a great facility of production, and where taxation was unknown, the prevalence of a strong spirit of economy, and of a desire to accumulate, would most probably produce this effect. There is no reason, however, to fear that the rise of wages and fall of profits would ever proceed to such an extreme as to prevent further accumulation. The rise of wages would, for a while, give an extraordinary stimulus to population; but after they had increased so as to cause a considerable diminution of profits, accumulation would become less rapid, and the demand for labour would continue to decline, until the diminution of demand and the increased supply of workmen had, by their joint operation, sunk wages to the proper level. It is plain,

therefore, that such a society might go on indefinitely increasing in wealth and population, though no such thing as an unproductive class had ever been heard of. The division of the produce of industry would not always be the same. At one period the labourer would get a larger, and at another a less proportion. When he got most, his condition, or, which is the same thing, the condition of the great mass of society, would be most prosperous; when he got least, he would have the satisfaction to know, that what he had lost was accumulated as capital; and that, instead of being wasted in the building of Pavilions, and the embroidery of Hussar jackets, it was applied to promote industry — to increase that fund by whose amount the demand for labour must always be regulated.

It is admitted by Mr. Malthus (*Principles*, &c. p. 31), that that portion of revenue which is saved from expenditure, and set apart to form an additional capital, is as effectually consumed as the gunpowder which is used in the firing of a *feu de joie*. But, in the one case, it is consumed by persons who reproduce a greater value, and, in the other, by those who reproduce no value whatever. It may no doubt be highly proper and necessary that such an unproductive consumption should take place; but to maintain that it contributes to the increase of national wealth is quite the same thing as to maintain, that that wealth would be increased by throwing a portion of it into the sea!

Wherever there is the *power*, the *will* to consume will never be wanting. The real difficulty is not in the eating of a good dinner, but in the getting of a good dinner to eat. If production be sufficiently stimulated, consumption may be left to itself; and Mr. Malthus may dismiss his fears, that ‘without a large expenditure on the part of Government,’ we should have a continued glut of commodities! At all events, we must not suffer ourselves to be misled by his authority. We must not suppose that there is any thing productive in taxation — any thing advantageous to the productive classes. It cannot indeed be altogether dispensed with; but the lower it is reduced the better. ‘Le meilleur de tous les plans de Finance est de *depenser peu*, et le meilleur de tous les impôts est le *plus petit*.’ The industry of an agriculturist will be exerted; he will endeavour to raise larger crops, if he knows he can exchange his surplus corn for labour, manufactured goods, or any other commodity he may wish to acquire. But will any such effect be produced by taking a half or a third of his produce to support some useless regiment, some pampered sinecurist, or some profligate mistress? Are we to be told, that the prospect of enjoying increased comfort, and comparative respectability and ease, as the fruit of exertion, will operate as a less powerful stimulus to industry and economy than the desire of satisfying the thankless and insatiable rapacity of the tax-gatherer? Mr. Malthus argues as if consumption stood still when taxes are reduced. But when this takes place, the fortunes of those from whom they are levied are proportionably augmented. Consumption operates with equal certainty, and to precisely the same extent, in the one case as in the other. The only difference is, that a reduction of taxation enables those by whose labour commodities are produced to consume a greater proportion of them. They are, in consequence, stimulated to still greater exertion; and this, as we have already shown, must necessarily augment the capital of the country, and the demand for labour. So long as the commodities produced are fitted for the use of those with whom it is intended to



exchange them, or of the producers themselves, it is altogether impossible that they can ever be in excess. If they are, it is from miscalculation — from the wrong adaptation of means to ends, and not from the absence of the tax-gatherer. Taxation in every form is an evil; and, when carried to the extent to which it was formerly carried in Holland, and is now carried in this country, it becomes, in the words of Dr. Smith, ‘a curse equal to the barrenness of the soil and the inclemency of the heavens.’

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### OFFICE OF LORD ADVOCATE OF SCOTLAND.\*

THE Institution we now propose to examine is well worth a thorough investigation. We allude to the office of Lord Advocate, and to certain matters with which that office is inseparably connected.

This is a subject on which, with reference to the actual nature of the office, there has lately been a complaint that very little is known; and, therefore we understand, that, in consequence of the difficulty which Parliament has occasionally felt in comprehending its exact character, it has often been proposed, even by members of administration, to get its mysteriousness removed by the labours and the report of a Committee. It is under the influence of the same ignorance, that we sometimes hear, what appear to us to be extravagant remedies proposed, both by the enemies and the friends of reform, for very fanciful objections to this institution; and, therefore, in order that the attention of the public, which is beginning to be awakened to these Scottish matters, may neither be relaxed nor misdirected, we shall now endeavour to explain what is the real condition of the office, and what is the extent of the reformation, if any, which it appears to require. We may premise, that with its mere history we have nothing to do. However interesting it may be to the antiquarian to trace its origin and progress, our concern is with its present practical state and tendencies. The result of any inquiry beyond this, we are satisfied, would be, that there is nothing, however absurd, illegal, or inapplicable to modern usages, for which abundance of precedents could not easily be found in the antient proceedings of an establishment, which was then little else than an engine of power in barbarous and irregular times.

*First.* The Lord Advocate, who, so far as we know, has invariably been, and must always be, a member of the Faculty of Advocates, and who is appointed and removed at the pleasure of the Crown, is the general *Public Prosecutor* for Scotland. Private prosecutions for criminal offences are not absolutely forbidden by the Scotch law; but they are much discouraged. It requires a peculiar and very direct interest to entitle a private person to institute such a proceeding; and even when the right to do so exists, the individual vested with it is exposed to various inconvenient restrictions. He is obliged, for example, to begin by finding security for the payment of certain penalties

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\* Essays on Constitutional Law and the Forms of Process; containing Suggestions for shortening the Duration, and lessening the Offence, of Judicial Procedure in the different Courts in Scotland. By William Ritchie, Solicitor of Supreme Courts in Scotland, &c.—Vol. xxxix. page 365. January, 1824.

if he fail to insist ; he must then take an oath that he believes his complaint to be well founded ; he has to pay his own costs ; and, if the case be decided against him, he must generally pay those of the accused also ; he is under the necessity of attending all the proceedings personally ; and there is very little protection against the disclosure of informers, or actions of damages. Practically speaking, therefore, private prosecutions are almost unknown. Every offence which is to be prosecuted, as all the material ones are, in the Court of Justiciary, which is the Supreme Court for the whole country, is not only charged in the name, but is conducted by the directions, of the Lord Advocate, or of those who act under him ; while slighter delicts, which are tried before the local magistrates, are prosecuted and conducted by an officer called the Procurator-Fiscal, who, in various respects, but chiefly in this right of prosecution, is, in his district, what the King's Advocate, by whom however he is generally liable to be superseded even there, is to the country at large. In the exercise of this privilege, his Lordship is invested with a very large discretion. Indeed, however he may be indirectly controlled by Parliament or by public opinion, his discretion, in as far as strict law is concerned, is almost unlimited. It is not positively settled whether he is bound, in any circumstances, to give up the name of his informer ; but it would certainly require a very extraordinary case to force him to do so, and we do not know that it has ever been done. He is not bound to explain the grounds on which he either accuses, or abstains from accusing. Neither he, nor the Crown which he represents, are liable in any costs ; and without a prostitution of his office so plain and gross that it can scarcely ever be supposed to be committed, he may safely smile at every threat of damages. In other words, he is the absolute Monarch of this great department of criminal justice.

*Secondly.* In thus prosecuting, or declining to prosecute, he is not controlled by any thing like the Coroner's Inquest, or the Grand Jury, in England. These institutions are utterly unknown in Scotland.

*Thirdly.* The privileges given by law to the prisoner, after he thus becomes an object of official accusation, are not great. In order to understand them, different cases must be supposed ; 1. If his Lordship, after preferring the charge, chuses to refrain from detaining the accused in prison, and from indicting, we know nothing to hinder him from keeping the accusation hanging over the head and over the character of the person to whom he has attached it, for twenty years. If he imprisons, the prisoner has a remedy under a statute to be named immediately ; or if there be an indictment, the accused may demand protection from the Court. But if he does nothing but accuse, that is, if he merely prefers the charge and gets the person committed, and then consents to his liberation, we are not aware of any *legal* remedy that the accused has in order to avoid the anxiety and shame of being thus charged, except to wait for twenty years ; after which it is understood that the right of prosecution is barred by the mere lapse of time. 2. If the imprisonment be insisted on, the prisoner can only get out of confinement by finding bail, if the offence beailable ; or if it be notailable, or if he cannot find bail, by availing himself of the provisions of a statute passed by the Scottish Parliament in the reign of Queen Anne, which, from its date, is commonly called the Act of 1701. This statute prevents the extension of confinement of persons in custody for trial beyond a certain period. But then, if the prisoner does not chuse,



or if he neglects, to make a formal application to the Court for the benefit of this act, it does not reach his case, and he may lie in jail untried till the said twenty years be out. 3. When the prisoner does avail himself of this statute (the benefits of which cannot be withheld from him while he is forced to continue in jail), the advantages which it gives him are chiefly, that he must know his accuser and his crime, and have his trial brought on and finished within a computed time. The length of the time depends on the proceedings of the accuser, and the adjudged cases show that it is often a matter of excessive difficulty to ascertain it; but it is now quite certain, that it may be extended in every case to 140 days, or to nearly five months. For this period, the Lord Advocate is entitled, certainly not without control, for he is accountable to Parliament and to the public, but without any regular legal check, to cause the incarceration of any individual in Scotland, nearly at his own discretion.

*Fourthly.* When the prisoner is at last about to be brought to trial, he must have his indictment, with the names of all his jurors and witnesses, and a specification of all articles of written evidence, at least fifteen days before; and at the trial he always has counsel, who are entitled to address the Jury on his behalf, and who, in all discussions, have the benefit of speaking last. These are great advantages, no doubt; but still there are some peculiarities in his situation which must be taken into view in forming any fair estimate of the powers of his accusers. *1st*, We have formerly explained, that there is as yet no law which secures perfect impartiality in the preparation of the lists of the Jury, and that the fifteen persons who are to try the case are named by the presiding Judge. *2dly*, It has been decided by the Court of Justiciary to be law, that that Court may, as it is usually expressed, *declare new crimes*; that is, declare acts to be criminal which were never heard of as criminal, or perhaps never heard of at all before. ‘It seems to be held in England,’ (says the leading modern authority on Scotch Criminal Law \*), ‘that no Court has power to take cognizance of any new offence, although highly pernicious, and approaching very nearly to others which have been prohibited, until some statute has declared it to be a crime, and assigned a punishment. With us, the maxim is directly the reverse; that *our Supreme Court have an inherent power, as such, competently to punish (with the exception of life and limb) every act which is obviously of a criminal nature, although it be such, which, in time past, has never been the subject of prosecution.*’ This is elsewhere called by the same author, ‘the *native vigour*’ of our criminal law. (vol. i. p. 436.) *3dly*, All the judgments of this Court are irreversible from the moment they are pronounced. There is not only no appeal to any other tribunal, but no power even by that Court of reviewing any of its own sentences, or of judicially consulting any other Judges.

*Fifthly.* The Lord Advocate has not only these privileges in his own person, but, besides being aided by a Solicitor-General, he has the power of splitting himself into various parts, by a nomination of Deputies, each of whom has the same authority with his constituent. We are not aware that there is any limit to the number of representatives whom his Lordship may thus appoint; but those who act are in general only three. They must be of the legal profession, and are

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\* Hume’s Criminal Law, Introduction, page 12.

commonly young men. The Lord Advocate is held to be responsible for them; and therefore, however difficult it may be in practice to make any one who is personally innocent responsible for the official conduct of another, he alone appoints and removes them at pleasure. So that there are thus prosecutors in the country, who, though they act in the name of another, yet perform the great mass of the criminal business, including the resolution to try, without having their qualifications previously known to, or being directly named by, the State.

*Sixthly.* To all these merely legal powers, there is invariably joined another, which is apt to affect the exercise of all the rest, to an extent which neither the law nor practice has exactly defined, but which is very considerable. The Lord Advocate is the organ of the Administration under which he acts, in matters purely Political. It is from this that the principal dignity and influence of his office is derived. He is not only the professional adviser of the Crown in legal affairs, but he necessarily obtains and holds his situation solely on condition of his supporting the interests of the party that promotes him; and in order that he may do so the better, it is quite well known to every body whom he may have occasion to address or act with, even in his proper official character, that he engrosses a very large share of irregular and undefined, but, for this very reason, of most effectual patronage.

These are the principal circumstances which distinguish his situation. Whatever opinion may be formed of the expediency or in expediency of their operation, these are the facts. That they vest this office with power, which is not only prodigious in extent, but not subject to any regular and familiar control of a legal character,—by which we mean any control liable to be enforced, like other matters of right, by ordinary applications to a Court of Justice, and not resolving merely or chiefly into what is called the responsibility of the servants of Government,—is beyond all question. This may be quite proper; but no one who is aware either of the theory or of the practice of this office can honestly dispute the fact, that its privileges are as extensive as we have described them to be. So far as we know, there is no one man armed with so great a power in any government professing to be free, in Europe; and certainly there is no other within the sphere of the British Constitution. It is difficult to add much to a power which is so great, that it enables its possessor to imprison, for 140 days, or, which is often of more importance than even this positive act, which enables him to abstain from trying or imprisoning, or, or in other words, to give an indemnity to all those who he thinks deserve it. Accordingly, the report of the proceedings in Parliament show, that those who have enjoyed this office have, at different times, described it as virtually engrossing all the other powers of the State. It has been said advisedly, and on the most solemn occasions, that the Lord Advocate is the Privy Council of Scotland,—the Grand Jury of Scotland,—the Commander-in-chief of the Forces of Scotland,—the guardian of the whole police of the country,—and that, in the absence of higher orders, the general management of the business of Government is devolved upon him.

Thus, a discussion arose in the House of Commons, in the year 1804, which turned upon the nature of this officer's powers; and the gentleman who then held the situation, and was well acquainted with its privileges, both by learning and experience, is said by the Parliamentary Reporters to have given the following account of them. 'They, Sir,



' who judge of the office of Lord Advocate for Scotland, by a com-  
 ' parison with the dry, formal office of Attorney-General in this  
 ' country, have, indeed, formed a most erroneous, opinion on the  
 ' subject. The honourable gentleman has professed his inability to  
 ' explain to the House the various and complicated duties of this  
 ' office. I wish that I could, within any reasonable compass, define its  
 ' duties ; for then, I can assure the House, that, though *extensive almost*  
 ' *beyond conception*, they would afford me ease and retirement, com-  
 ' pared with the endless succession of duties which now successively  
 ' pass under my review. It will be necessary for me to say a few  
 ' words here respecting the executive government of Scotland previous  
 ' to the Union. At that period, the *Lord High Chancellor*, the *Lord*  
 ' *Justice General*, the *Lord Justice Clerk*, the *Lord Privy Seal*, and the  
 ' Lord Advocate, were the constituent members of administration.  
 ' From a variety of causes, these have successively disappeared. The  
 ' Lord High Chancellor is no longer in existence. The Lord Privy  
 ' Seal exists merely for the purpose of appending the seal of Scotland.  
 ' The Lord Chief Justice General is the mere nominal head of a Court  
 ' at which he never presides. By a special act of Parliament, the  
 ' Lord Justice Clerk can have no seat in the House, and is wholly  
 ' confined to his own Court:—under these circumstances, Sir, *the*  
 ' *whole of the duties connected with these various departments have now*  
 ' *entirely devolved on the Lord Advocate of Scotland*. To him all inferior  
 ' officers look for advice and decision ; and, *with the greatest propriety,*  
 ' *it may be said that he possesses the whole of the executive government of*  
 ' *Scotland under his particular care*. I, Sir, have found in my own ex-  
 ' perience, how *boundless* are the duties which this office imposes. It  
 ' has fallen to my lot, in a thousand instances, not only to give advice  
 ' on subjects connected with my professional pursuits, *but on subjects*  
 ' *altogether foreign from my habits of life*. I have often been under the  
 ' necessity of giving advice in matters *purely Military*, and to endeavour  
 ' to remove difficulties which had occurred in arranging the means of  
 ' national defence. *I may state, without exaggeration, that since the first*  
 ' *passing of the acts for the defence of the country, I have given to Lord*  
 ' *Lieutenants, and others employed in carrying these acts into effect, no*  
 ' *less than eight hundred different opinions on the subject of military*  
 ' *arrangements.*'

Many of these pretensions have been scouted by some people as  
 extravagant, and even ludicrous;—but we see nothing ludicrous in  
 them. It may possibly be true, that a few of them are not clearly  
 founded in strict law ; yet, as the office is allowed to be practically  
 managed, every one of them is rather understated. The truth is, that  
 our Prosecutor's mixture of general political superintendence with  
 undefined legal rights makes it difficult to say what privileges he has  
 not, or at least will not be held to have, whenever a particular case  
 occurs in which it is necessary to answer a complaint by reference to  
 the nature of his situation.

This has given rise to two opposite opinions as to the course that  
 ought to be pursued with respect to it. Some are for an instant and  
 complete abolition of the place, which they hold to be, even on or-  
 dinary occasions, an utter abomination. There are others again  
 who think that it does not require to be even corrected; but that,  
 though it be an institution which could not possibly be transplanted  
 into any other part of the British empire, it does excellently in Scotland,



and is indeed the principal cause of that administration of the common law which these persons hold to be the boast of this part of the kingdom. The reasoning of the former class does not require to be explained. It consists in referring to the preceding facts. The reasoning of the latter class is this :—They say that the office was instituted as a protection to individuals against unjust accusation, and a protection to the public against there being no accusations at all ;—that the duty of thus investigating crimes and suspicions requires very great discretionary powers, the exercise of which ought not to be lightly questionable ;—that to prevent abuse, however, the Lord Advocate, as such, must hold a high place in the State, and be much in the confidence of the executive government ;—that this elevation is a security against any prostitution of his office ;—that the very greatness of his power, by keeping up a constant jealousy, is the best security for his moderation ;—and that a single individual, experienced in law, eminent in dignity, and removed from temptation, is at once a more intelligent and a more responsible instrument than either grand juries, or any thing else that has ever been invented for the purpose of uniting complete vigilance with complete impartiality in the prosecution or the non-prosecution of crimes.

Lest it should be supposed that we are not doing justice to the last of these views, we shall state it in the words of the author already quoted, whose authority on these subjects is the more important, from his intimating in his introduction, that he was partly induced to publish his work by ‘ *the desire of rescuing the law of my native country from that state of declension in the esteem of some part of the public, into which, of late years, it seems to have been falling.*’\* Acting under the influence of this consideration, the following is the answer made to the objection we have referred to. There are no italics in the original ; but we have printed such of the words in that form as seem worthy of the intelligent reader’s special notice.

‘ I think it may also be doubted whether the complaint is better founded respecting that part of our system which lodges the power of prosecution with a public officer, the Lord Advocate, by whom it is exercised according to his own judgment and discretion. For what are the evils which have been found in practice to attend this plan of accusation ? Or is it not rather certain, that, to this very course of proceeding, *which places the entire responsibility for all prosecutions with one individual* of high rank and reputation, (who therefore, on his own account, will be cautious and reserved in the exercise of his powers,) we owe the singular and constant moderation which has prevailed, *time out of mind*, in the administration of this part of public justice. Certainly, it cannot be disputed, that, by this contrivance, the Prosecutor is most effectually removed from the contagion of that popular prejudice, either for or against the accused, which is apt to arise in any case of an extraordinary or interesting nature. And, with respect to the risk of the influence of the Crown, *it is true, that, in an arbitrary government, where the whole frame and order of things tends to make the favour of the sovereign the chief object of regard and the sole means of preferment, such an institution might be made an engine of injustice.* But there is no inference from thence to the situation of things in this country, *where such is the care of freedom and love of*

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\* Hume’s Commentaries, Introduction, page 4. edit. 1819.



‘ justice, and such the high influence of the popular part of the Constitution, that any person holding the office of Lord Advocate, who should strain his powers, or pervert them to oppressive purposes, would injure alike his own reputation and fortune, and the service of the Crown. And as, on the one hand, the inhabitants of Scotland have nothing to fear, and, in truth, have never suffered (since the Revolution at least) from the privileges of this office, so, on the other, it is impossible to deny the high and extensive benefits which attend it, in maintaining the police of the country, and securing the prosecution of every criminal whose case requires it, without any trouble, or a shilling even of expence, to the party injured.’

Both of these views are incorrect ; and the real truth will probably be found to lie between them. A distinction must be attended to which is plainly overlooked in each.

In *ordinary cases*,—that is, in cases not affected by political considerations,—the absence of all interest or prejudice may easily enable the good sense or humanity of those who are at any time intrusted with the office to overcome its defects in their practice ; and we presume that it is only of such cases that those are thinking who make general panegyrics on the institution itself. Even with this restriction, they are not always correct : witness the monitory case of Campbell of Glennure in 1752 ; and the almost constant support, or rather invitation, which has been given to the Court in its claims to the exercise of those powers, such as that of enacting new crimes, which, even though they be founded in barbarous law, it is plain that no court ought to exercise, or ought to be encouraged to think of as falling within its sphere. But it may be conceded that, in general, the practice of the office has, in ordinary cases, been judicious, moderate, and impartial. The great wonder, and the just praise, is, that a system so liable to abuse has been abused so little.

But, as Cicero says of a Roman prosecutor, ‘ Nulla est laus ibi esse integrum, ubi nemo est qui aut possit, aut conetur, corrumpere.’ These are cases in which there is no temptation to go wrong. How does the truth stand when it is tried by the touchstone of one of those questions in which the fate of an administration is involved,—or the conduct of its local representatives is at stake,—or party interests and feelings are even implicated ? Is it indeed true, that, *on such occasions*, ‘ the inhabitants of Scotland have nothing to fear, and, in truth, have never suffered (since the Revolution at least) from the privileges of this office ?’ Let history answer this question. We must decline entering into any details ; partly because each instance of alleged suffering would open up a field more extensive than we can allow for the whole subject, and partly because the proper reply to such propositions, when viewed, as we view all this matter, with reference to the principles of an institution, and not to the conduct of any individuals, consists in appealing not to what has taken place in detached cases, but to what the tendencies of the institution entitle us to hold must always take place, were it even administered by angels. It is a degradation of the cause of truth to descend to any other refutation, except that which rests solely upon the known moral nature of man. Sir George Mackenzie, the Lord Advocate of Charles the Second, a very learned and eminent person, has an argument, in his Treatise on our Criminal Law, against the expediency of Juries in penal trials. Part of his reasoning is founded on the evidence afforded by examples

of the corruption of juries, and of the integrity of judges. Would it not have been idle in any person to have exposed this by examining his cases? There are some occasions on which, in order to judge of a political institution, we must examine everything about it in detail. But there are others, and this is one, in which this labour may safely be superseded by the obviousness of one result, which is as certain as the identity, at all times, of the human character. Is it reasonable to require examples of abuse, in order to be convinced that an absolute monarch must always be a bad king, even though he should happen to be an excellent man? We are far from saying, that it is *impossible* for a public prosecutor to act with impartiality in party questions. But, in reasoning on the probable result of an institution, we must think of its *general tendencies*. Now, without meaning to cast any imputation on any individual who has ever held, holds, or ever will hold, this office, we may surely say, that the *chance* of a public accuser being quite candid, when his place or his party are at stake, may fairly be judged of by referring to that principle which declares, that the most incorruptible person who ever sat in the judicial chair must be presumed unfit to be safely intrusted with the official disposal of one sixpence, if he has an interest in it;—that the most honest man alive cannot be believed, even under the sanction of a special oath, if he can gain or lose one farthing by the result of a cause in which it is proposed to make him a witness;—and that, in Scotland, particularly, partiality is held to be so prevalent, that the law requires even a supreme judge to leave the Bench if a cause be about to be proceeded with in which the interest of certain relations, far beyond his own family, is concerned. But what are all these when compared with the interest which is felt in the fate of a party?—in keeping or losing a high and lucrative office?—in being resistless, in a station where the mere exercise of power looks something like the possession of real greatness?

Nor will this consideration be removed by saying, that those who are raised to this office must necessarily be persons of high characters. Let this be assumed. Still it is very dangerous to let our lives and liberties depend on the character of any one man. But, besides this, there are two things which, with reference to real life, deprive this personal and complimentary defence of all force. In the *first* place, those who hold that this office has been abused, and that it must always be liable to abuse in political cases, are by no means bound to ascribe this to the fault of the person who holds it. It would not materially diminish the force of the objection, though it were to be assumed that no one could possibly be invested with it without previously being, or instantly becoming, a perfectly pure man. The misfortune in such matters is, that people are never all of one mind; that each person thinks it his duty to do what is to support his own conscientious opinion; and that this bigotry of virtue is apt to be strongest in the most sincere men. The persons by whom the most violent and illegal things have been done in public life have sometimes been men individually of unexceptionable natures. But they thought certain things right, which other people thought wrong; and what satisfaction was it to the latter, to be told, when they complained of oppression, that the former were remarkably worthy characters? The vice is in the system, and not in the men. In the *second* place, in order to make the administration of law salutary, it ought to be above suspicion. Now, let public prosecutors, acting at their own discretion, be as pure as they may, they never will get universal



credit for their purity. Their characters and motives may be perfect; but the mischief is, that those who differ from them can seldom be made to believe, or to care, for this: and therefore, the reliance which is demanded for them upon this account can never have any effect, even where it is perfectly well founded, except to throw discredit on the system which requires such faith to support it. ‘*Magnitudo periculi summo timore hominem afficit, quod uno judicio de fortunis omnibus decernit; idque dum cogitat, non minus sæpe ei venit in mentem potestatis, quam equitatis, tuæ; — propterea quod omnes, quorum in alterius manu vita posita est, sæpius illud cogitant, quod possit is, cujus in ditione ac potestate sunt, quam, quid debeat facere.*’ \*

There have therefore been various remedies proposed for what at all times have been felt to be formidable objections to this office. There are some, as we have already hinted, who are for its instant abolition, or for alterations which amount to nearly the same thing. It is not unusual, for example, to hear it proposed, that the Lord Advocate should not be privileged to decline disclosing his informer,—that he ought not to be saved from costs or damages,—that he ought to have no right to delegate his authority to others,—and that some liberal provision should be made for private prosecutions. Now, it is plain that these, and many similar remedies that might easily be named, are inconsistent with the existence of the office. If we are to have a public prosecutor at all, he must be vested with those privileges without which he could not act; and if we are not to have him, he had better be abolished directly, than allowed to remain in an ineffectual condition. But there are other alterations to which this objection does not apply, and which proceed upon the principle that the office is not to be abolished, either directly or indirectly, but that its respectability and usefulness is to be increased, by making it more popular and more agreeable to the principles of our constitution.

1. The very first change of this description which seems now to be called for, and which is recommended by its requiring no new law, but depending merely on the practice of the government, is, that the Lord Advocate should be empowered or obliged to act as a Political character in an infinitely less degree than he now is. There was some apology for his being required to discharge the duties of an agent for administration when the kingdoms were first united, because there was then such ignorance of Scottish affairs in the highest quarters, and the intercourse with the metropolis was so imperfect, that it was necessary to have some resident organ of government; and, though the Public Prosecutor was the very last person who ought to have been selected for this business, it was not unnatural to employ him. But now that the country is trained to habits of lawful industry,—that the whole of our affairs are as well known at the seat of government as they are here,—that the people have risen to a juster conception of their constitutional rights,—that government is effectually represented by other officers in all departments,—and that a letter can easily reach London in forty-eight hours,—there seems to be no ground whatever for continuing the junction of two offices which are quite inconsistent. For nothing can be more glaring than the incompatibility between the duties of a public prosecutor; and those of a mere servant of administration. The interest which the community has in the impartiality of its Judges is not much

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\* Cicero pro P. Quintio.

greater than that which it has in the impartiality of its national accuser. If this officer has not candour and firmness to view every case solely according to its legal merits ; but, either from arbitrariness of principle, — from violence of temper, — from gratitude to his patrons, — devotion to his party, — a bias towards his friends, — he be likely to mitigate prosecution in favour of some who are probably guilty, but whose guilt it is inconvenient to expose, or to enforce it strictly against others who may be innocent, but over whose innocence it is convenient to cast a doubt, — he is the greatest curse that a country can know. It is but just, therefore, with reference even to himself, to keep him clear of that constant party contact, which is a more copious source of prejudice than almost all the other temptations to which our nature can be exposed.

This too is infinitely more necessary in Scotland than it is in England. In the latter country there are Grand Juries and popular elections, and many other institutions, which stand between the people and the official accuser. But in Scotland, there is nothing interposed between these two, except perhaps public opinion, which is often uninformed, and must in each individual case be too late, and subsequent parliamentary responsibility. The people, therefore, are very little practised in those habits of orderly public freedom which, in England, go far to supersede all the other checks of the constitution. The number also of places of honour or emolument for procuring which, the patronage of the Lord Advocate, if not decisive, is at least very desirable, is much greater here in proportion to the population. In every country, too, in which there is no Parliament, the Bar necessarily becomes the next important political element, and its independence is the next best preservative of public spirit. Now, the Scotch Bar, though prodigiously overcrowded with reference to real practice, is in the extraordinary situation of having one office for every third or for every second member ; which offices, being of a legal nature, may be supposed to fall peculiarly within the fair line of the prosecutor's influence.\* Now, is it right, or even decent, that he, on whose breath the life, liberty, and character of every man and woman in the nation may depend, should be allowed, any where, but particularly in a country circumstanced as this is, to expose

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\* After the most accurate examination we can make, the following appears to be the state of the fact.

The names on the roll of the Faculty of Advocates amount in all (December 1823) to 374. The number of offices held by these persons we cannot ascertain, because many of them are unconnected with the law, and are held out of Scotland ; but the civil offices, held by members of this Society within Scotland, are certainly above 100. This includes Judges, Sheriffs, Professors, Crown Counsel, Clerks to Burghs, to Sheriffs, and to Courts, Sheriff-substitutes, Collectors of Decisions, situations in the Customs, Excise, General Register House, Exchequer, &c. &c. But this division of 100 among 374 gives no correct idea of the extent of the influence to which the real professional part of the Bar is exposed ; because many of these situations are not necessarily enjoyed by barristers, and because many of these office-holders have no connection whatever with the Bar. The true practical view is, to divide the really professional offices among the really professional men capable of holding them. In this way the thing will stand somewhat thus :

There are on the Faculty roll 374 names. From these must be deducted about 150 persons, who, from age, office, peerage, permanent bad health, permanent absence, change of avocation, &c. have as completely renounced the Bar as if they had never belonged to it. This leaves 224. From these again may, in one



his mind to the poison arising from regular and avowed party agency? — especially since he can scarcely do so, without spreading that poison among classes in whose healthiness the country has an interest, and who are peculiarly ill fitted to resist it.

If it be said that he is not a party agent, but the dignified manager of the public business of Government, we shall not quarrel about the phrase. Government is the party in power; and, let it be Whig or Tory, he who manages the political business in one of the provinces of

view, be deducted 53, who, having entered within the three last years, can scarcely expect to be elected to any public station, and are legally ineligible as Judges and Sheriffs. This leaves 171. Now, the offices for these 224, or for these 171, are as follows:—

Named by the Crown.	{	Judges in the Court of Session and Justiciary	15
		— in Exchequer	4
		— in Jury Court, not included in above	1
		— in Admiralty Court	1
		— in Commissary Court	4
		Sheriffs	30
		Clerks of Session, at present 2, but com-	
		monly 3	2
		Clerks of Jury Court	2
		Deputy Clerk Register	1
		Solicitor of Tythes	1
		Lord Advocate	1
		Solicitor General	1
		Professor of Public Law in University of	
		Edinburgh	1
— by the Lord Advo-	{	Depute Advocates	3
cate.		Crown Counsel in Exchequer	2
— by the Faculty of		Law Professors in University of Edinburgh	3
Advocates.		Collectors of Decisions	4
— by the Boards.		Counsel for the Boards of Excise and Customs	1
— by the General As-	{	Procurator for the Church	1
sembly of the			
Church.			

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The last nine persons are not named by the Crown, or by the Lord Advocate, directly; but how far they are so indirectly, need not be stated.

Now, if we divide these places among 224, the total number at the Bar, it amounts to something more than one office for each third person. If we deduct those young members who are really not eligible, and thus make the division among only 171, it seems to want only about a tenth of being *one office for each second person*!

The emoluments of these offices, we should think, may be stated thus:—

4	of them are worth about	L. 4,000 a year,	-	L.16,000
3	-	3,000	-	9,000
3	-	2,500	-	7,500
14	-	2,000	-	28,000
4	-	1,000	-	4,000
8	-	500	-	4,000
34	-	300	-	10,200
8	-	probably below 250	-	2,000

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L.80,700

We cannot positively vouch for the absolute accuracy of all these details, but, after a careful inquiry, we believe them to be substantially correct.

that government is the organ or agent, or whatever it may be called, of that party. In what a painful situation, then, even for his own sake, is a Lord Advocate placed, who, while this unseemly combination of power lasts, can scarcely stand up and address a single jury in a political case, without being conscious that he is necessarily conveying to persons subject to the same prejudices the impression that he is not merely submitting to them a question of evidence, but straining to obtain a victory for his party?

To what precise extent his exclusion from politics ought to be carried, it may not be easy to define; but the clear principle is, that he ought to be viewed merely as the professional adviser of the Crown in professional matters. He can never be expected to be indifferent about the success of his party; and we are by no means romantic about the extinction of party feelings,—which are salutary and necessary things. But, if there be one person in the community who ought to be rescued more than another from the prejudices which they are apt to create, it is he on whose legal candour and moral liberality the comfort of our lives depends, more perhaps than it does even on that of the judges. Though we concede, therefore, that he may be pledged to his party, both by honour and by interest, there is no reason why he should openly or secretly manage its affairs, or be exhibited as one of the known dispensers of political patronage. His abstaining from this would at once be the most dignified thing for himself, and, therefore, the most expedient for his patrons.

We are aware that it has been stated, that if the Lord Advocate does not take the general charge of Scotch affairs, there must be a regular Secretary for Scotland, and that this would be infinitely worse than what we have. We believe that it would. But there are two answers to this suggestion.

In the *first* place, there is no necessity for such a secretary. There is no more need of a separate secretary for Scotland, than for Yorkshire, Northumberland, or Wales. Every thing that Scotland requires to be done can easily be accomplished by the general Secretary for the whole kingdom, and by the other public establishments, with which the country is now quite familiar. There was a Secretary of State for Scotland for a few years after the Union; and perhaps this was necessary for a short while at that crisis. But in the year 1725, a communication was made by the Duke of Newcastle to Duncan Forbes, the Lord Advocate, stating, that ‘his Majesty, not intending for the future to have any particular Secretary of State for Scotland, has been pleased to remove the Duke of Roxburgh from that employment, *and ordered his other Secretaries of State to take care of the department that his Grace had.*’ \* If the other Secretaries could take charge of Scotland at that period, when the harmony between the two countries was scarcely begun, why should they not do it now, when it is completely systematized?

In the *second* place, if we must have a separate Secretary, we are very clear, that, let it be given to whom it may, this office ought never to be united with that of Public Prosecutor. The two things are irreconcilable. The Lord Advocate can never be prepared, by his previous habits and education, to make a good Secretary; and the feelings of a Secretary of State are destructive of every quality that ought to predominate in the mind of a Lord Advocate. No person is either qualified,

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\* Culloden Papers, page 94.



or ought to be allowed, to act as a Secretary for any part of the empire, who does not generally reside at the seat of government ; who is not thereby led to act with high public men of all parties ; and is not trained to feel and to respect the discipline of Parliament. It may do very well to raise an ordinary barrister to the rank of Lord Advocate, and to the discharge of what *ought* to be the duties of that situation ; because this is all within the line of his professional experience and knowledge. But what can be more absurd than to tell such a man that he is now, all at once, a statesman ; and that, though he may never have crossed the Tweed, or conferred with a single public character, or smelt St. Stephen's—he is to manage the whole public affairs of the country !

2. Having thus purified the official Prosecutor,—the next thing is to protect the accused from being confined or degraded by the charge for an unnecessary length of time before he be tried. For this purpose, it is necessary that the Act of 1701 should undergo revision. This will startle official people, with whom (much more than with prisoners) it is a favourite opinion that this is a perfect statute. The phrase sometimes is, that it is the *Magna Charta* of Scotland ; and at other times, that it is the *Palladium* of Scottish liberty. In one sense it is ; for it is all that we have ; and it was no doubt a great relief to the country in the year 1701, because, in those days, the correct statement of the former law was, that the Lord Advocate could do any thing he chose. But, as a protection to the subject *now*, it appears to us, with all due deference to its encomiastic admirers, to be a most defective statute.

Its very obscurity, considering what its object is, is almost a sufficient objection to it. There is a tradition, that its author was, in his heart, a great enemy to the liberty of the subject, and that he used to boast, after the act was passed, that he had defeated its end, by making it unintelligible. Any one can easily judge how far he succeeded by reading the act, which is extremely short. Certain at least it is, that there is no one statute which it is more difficult, even for professional men, to expound, or which has required a greater number of decisions to attempt to make clear. It is not above two years since, according to the Parliamentary Reports, the Lord Advocate stated his conviction, in the House of Commons, that that statute prevented the possibility of imprisonment being extended beyond one hundred days ; yet, in practice, it certainly extends the period to one hundred and forty days. What can be said worse of a statute meant for the protection of the subject, and which, therefore, the subject ought to understand, than that the Public Prosecutor himself was misled by it as to the extent of his own powers ? So far as it is clear, or is understood to be so, it is liable to very formidable objections.

For one thing, the period of imprisonment of which it admits, *in all cases, as a matter of right to the Prosecutor*, is too long. We are aware, that more than five months sometimes intervene between one Circuit and another ; and that there are some cases in which all this time may be required to prepare for trial. But this is no reason why this should be assumed as a period which the Prosecutor is entitled to take advantage of, *as matter of right in every case*. Where a fair opportunity occurs for trying, as, for example, a Circuit, it is surely subjecting him to no unreasonable restriction to require that he should obtain an order of the Court for further time, or, at least, to allow the question



to be argued at the instance of the prisoner. Of course, the benefit of the full period would be very easily obtained, and the granting of it might, perhaps, soon become a matter of course. But still, the very necessity of applying to the Court would often prevent injurious delay, and operate as a great protection to the prisoner, without being any obstruction to justice.

But this defect is immaterial, when compared to the next, which is, that the act affords no protection whatever to those *who do not make a formal written application to the Court for the benefit of it*. This, if it be not done by a professional man from charity, costs something;—the proceedings are liable to very strict formal objections; and there is a very common and natural, though certainly a very absurd, idea, with ignorant people, that the very measure of claiming the protection of this statute is a sort of defiance of the Lord Advocate, and does not tend to conciliate. Accordingly, the fact is, that though prisoners may be pining in jail, and abusing the cruelty of the law, there is a general unwillingness to resort to the act. This may sometimes proceed from the prisoners having no desire to accelerate their trial. But, as this feeling must chiefly exist in the minds of guilty men, it is the very feeling which the public has an interest in preventing from being made an engine for procrastinating justice. Now, is it not inexpedient for the community,—cruel to the guilty,—still more cruel to those who, though conscious of innocence, are trembling for the plausible evidence to which they may be exposed,—and injurious to the habits of the prosecutor and his official associates, that if a prisoner be either so stupid, or so timid, as not to institute a certain judicial proceeding, he may lie in jail almost for any given length of time? The Act 1701 affords no protection to such a person. We are quite clear, then, that it would be a great, and, so far as we see, an unobjectionable improvement, to declare, that every person, from the moment of his commitment for trial, was necessarily within the provisions of the act. This would protect prisoners,—it would expedite justice,—and it would greatly relieve those who are at the expense of maintaining the inmates of jails.

But, moreover, the statute makes no provision for accelerating the trials of those who are not imprisoned at all. Its declared purpose, indeed, is to remedy excessive *confinement*. So that, as the law now stands, the only way in which a person, who is suffering under what he believes to be an unjust accusation, can force on a judicial investigation, or get free for ever of the charge, is to go to jail, and to lie there for 140 days. But, even of this remedy, it is always in the power of the prosecutor to deprive him, by not applying for his commitment, or by saying that he consents to his liberation. If this be done, the accused must live under the weight of the charge the best way he can, till the prosecutor shall please to indict, and the Court shall then please to force the prosecutor to proceed with his indictment; or till time shall cleanse him by the moral quarantine of twenty years.

3. After he has got into Court, the prisoner, and through him the community, is exposed to indefinite risk by the three circumstances that have been mentioned—of the Court naming the Jury,—having the power to declare new crimes,—and all its judgments being irreversible. On the first of these, which forms the great stain of our criminal jurisprudence, we have, on other occasions, explained ourselves so fully, that we shall say nothing more about it at present. The other two deserve a few words.



The '*native vigour*' is monstrous. The reasoning generally employed to defend it, that is, to defend the strange power by which a court of law, *without any previous promulgation* of the new code, but *on the trial of an original case*, determines things to be criminal without statute or precedent, and solely upon the opinion of the Judges that the act is wicked and dangerous,—resolves merely into the *convenience* of its doing so. It is said, to save slow and expensive applications to Parliament; that the Judges are best acquainted with the principles of the established criminal system, by which they can easily make the new crime take its proper place in the existing code; that while Parliament, in making a general statute, would be obliged to set the punishment so high as to make it adequate in an aggravated case, the Court can always proportion it to circumstances; and that here, too, the mildness of the punishments that have been applied show how safe it is to trust all this to persons of unimpeachable character and of high station.

Now what is all this, except a poor argument to show, that the legislature may expediently be dispensed with? And that, though no court can strike an offence out of the calendar, there is no risk, even in dangerous times, in letting judges, named and liable to be promoted by the Crown, *add* as many to it as they please? What would be said if this were attempted in the form of a resolution of court, without an indictment at all? But is it at all less legislative or less dangerous to get the Lord Advocate to indict, and then to entrap the victim or the community by finding, on that indictment, that a crime was committed by an act which was never charged to be criminal before? If there be one subject more than another as to which the legislature should *not* be dispensed with, it is in adding to the list of what shall be held to be crimes. Nor can any thing be more adverse to the formation of right judicial habits than the idea that it is possible for judges to exercise the slightest portion of legislative power. As to the reference that is made to the mildness of punishments depending on the discretion of courts, it rests upon a total mistake. All experience has shown that courts are much more apt to exceed in severity, or in any other error, than senates; that is, that a small number of men are more easily misled than a greater number, equally intelligent and independent. Courts, too, both in creating and in punishing new offences, are naturally under the influence of a prejudice which it is extremely difficult to guard against, because it is founded in seeming benevolence. They only pronounce acts to be criminal for the first time from a strong impression of what they conceive to be the moral iniquity of the deeds, and they are, unconsciously perhaps, but irresistibly, beset with the virtuous ambition of distinguishing themselves by the vigorous putting down of guilt yet in its infancy. They are apt to act not under the love, but under the passion, of justice. Parliament is infinitely less swayed by a feeling which can only attach itself to a select number of individuals, and is lost amidst a great number of men, whose judgments rest on cooler and more general views. Accordingly, *the fact is*, that while an existing English statute only allows combination amongst workmen to be punished by three months' imprisonment, the Scottish Court, *after introducing this as a new crime*, has actually punished it by imprisonment for eighteen months, and has always held out that it was punishable by transportation; and while another English statute, passed for a short period, and in a season of alarm, only allows the author of a seditious libel to be banished for seven years for the second offence, the Scottish



Court, *exercising a discretionary power*, has generally punished it, in modern times, by transportation for fourteen years for the first offence.

The irreversibility, or, in other words, the impossibility of reconsidering Scotch criminal sentences, or of consulting other judges in their formation, is equally indefensible. We do not allow the pecuniary interest of any man to be affected beyond the extent of a few pence, without affording an opportunity for taking the opinion of courts above those by which that interest may be originally disposed of; and yet we allow those great questions of criminal justice, in which the life and liberty of every man in the kingdom is involved, to be finally disposed of by a single judgment, pronounced by a tribunal consisting of six individuals. This tribunal, no doubt, has a certain power of adjournment and of reconsideration, before its judgment be given, which is daily exercised. But this power is extremely apt to be interfered with by the currency of the 140 days; and it can never be exercised in any one case, when a point arises which it is necessary to decide in the course of a trial. *There is no power of reserving such points.* But even though there was, and although the forms of the court admitted of argument and of reconsideration to any extent, it would still form an alarming defect, that the review was confined to that court alone. There is a great advantage in introducing even a single fresh mind into judicial discussion. New lights are thrown out, — erroneous principles, which, from mere habit, had escaped the attention of one set of men, accustomed to certain fixed ways of thinking, are detected, — the grounds of judgments, by being questioned, are studied and explained, — courts are saved from peculiar and narrow maxims which are apt to steal upon all men when they are unconscious of control; they are taught to think in sympathy with the rest of the legal world; and, above all, a degree of authority is given to decisions in doubtful questions, after they have been fully sifted by new and independent men, which can never be imparted by their only expressing the opinion of a small number of unchecked individuals, however wise or honest they may be. The vulgar answer that is usually made to this consists in saying, ‘What! would you have the execution of criminal sentences stopt, as long as the criminal chose to object?’ No, we would not. But when a legal question arises, which is of importance and difficulty, and on which the court itself perhaps is divided, we certainly would give *the court, or the prisoner with the approbation of the court*, an opportunity of having the point more fully and deliberately discussed, though not to the exclusion of the original judges, before other persons, on whose integrity and learning the state has equal confidence. The alarm lest this would prevent culprits from being hanged or transported fast enough might be effectually allayed, we should think, by mentioning the simple fact, that this is the system which prevails in England, and yet that men are hanged and transported there a great deal faster than in Scotland. Under the present plan, the strange anomaly must be continued, of letting our whole criminal law, including the law of criminal evidence, depend upon six individuals, whose personal and official excellence may be conceded to the fullest extent, but who, nevertheless, are human beings. If it be right that such persons should be exclusively trusted with the settlement and application of those principles on which our lives and liberties depend, then our whole system for the trial of civil rights *must be* admitted to be cumbersome and useless.



One of the worst effects of this exercise of legislative authority, and this exemption from the salutary restraint of other courts, is to be found in their tendency to obstruct the acquisition of right judicial habits. Unfortunately, there is a recent period in our judicial history, which affords a too powerful illustration of this remark. We allude to the Trials for Sedition which took place in Scotland between the years 1793 and 1797. These cases have all been published by Mr. Howell, in his valuable edition of the State Trials; but it would require a short exposition to make the exact import of certain parts of them fully intelligible to strangers. Nothing would be more useful than such an exposition. But the time is not come in which it can be easily given;—for though the judges (of whom alone we now speak) who acted in those scenes have all passed away, it probably could not even yet be done, as it ought to be, without giving pain to surviving friends. This, to be sure, is a weak reason for saving the memories of public men from public discussion;—but we choose to err on the side of tenderness. We shall, therefore, only recommend those who are curious about such subjects to recollect what a Criminal Court, in agitated times, ought to be, and then to read these Trials. Let him observe the temper,—the language,—and the manners of the Bench; and, assuming all that was done to have been legally correct, let him try how many of the things that will probably surprise him may be accounted for by their occurring in the conduct of persons who knew that they were subject to no judicial control, and that the power of resisting interference, by declaring any thing to be criminal that they chose, belonged to them alone. Some of these trials were discussed in Parliament at the time; and stronger language was used by the greatest statesmen of the age, with respect to the general tone and spirit of the Scottish Criminal Bench, than we can discover to have been used there in describing the conduct of supreme judges in any part of the empire, either since the Revolution or before it. We are aware that there are people by whom this language has been condemned. But this class, consisting chiefly of those who partook of the prejudices of the day, is gradually diminishing; and there are few candid men who do not now acknowledge, or at least who do not feel, that it would be honourable for the Law if these cases were obliterated from its history. For our own part, we think it right, since they occurred, that they should be known; and though it would have been more agreeable to have passed over this branch of our subject in silence, we feel that we cannot discharge our duty without thus entering our protest against proceedings which, though they be unfortunately still received as legal precedents, we have never been able to read without shuddering.

There is yet another point, more important than all, which, we believe, has for some years presented itself to many of the highest men of all parties as the most constitutional, and the only effectual, remedy for the objections which have undeniably been gaining ground in the country to this singular office. We allude to *Grand Juries*. On the propriety of introducing these into Scotland, we shall perhaps incur the contempt of less timid reformers, by confessing that we have been a very long time in making up our minds, and that, even yet, we are only prepared to suggest a very few very imperfect views.

Part of this uncertainty has arisen, no doubt, from our not having the advantage of knowing, with that accuracy which those only who live under its operation can acquire, how this institution works practically



in England: but it is impossible to forget that the circumstances of the two countries are materially different. It sometimes occurs to us, that grand juries may be very natural, and indeed absolutely necessary, in England, where criminal justice is chiefly administered under private prosecutions, in order to save people from the risks of irresponsible accusation; but that this consideration does not apply to Scotland, where the existence of a public accuser may at least afford some security against this evil. And yet, when we think how extensive and undefined the powers of this officer are, and how much his own personal interest and that of his party is involved in every political case, it strikes us, with perhaps better reason, that his existence may not only fail to afford any protection at all, but may prove the worst of all engines of oppression. Then, again, when we recollect the popularity of the English Government, and how long and generally all classes in that community have been accustomed to the free exercise and discussion of political rights, we see how grand juries, especially in times dangerous to liberty, may really prove an effectual shield to the accused and to the law; and how, out of the forms of the constitution, a privilege is called into operation which is well calculated to preserve its spirit. But we cannot fail to perceive that this mighty advantage implies the previous possession and the general prevalence of independent public principle; and we no sooner think of this, than we are obliged to doubt if grand juries would do much good to Scotland. They seem to be useful, when combined with other popular institutions; but what protection would they afford in opposition to the Crown, in a country not only without popular elections, but of which the great body of the inhabitants do not feel that they personally have the slightest connexion with the representative system? Might they not merely enable the accuser to diminish his responsibility, without at all abridging his power?

These have been the grounds of our doubts. But, at last, after taking as deliberate and large a view of the subject as we can, we have settled into the belief, that, under whatever qualifications, as to their extent or form, they may be introduced, the time is come in which grand juries ought to be given to the people of Scotland. There are some who will exclaim at the very mention of such a thing, as implying a revolution in all our technical forms, and an impeachment of the public officers by whom our criminal justice has hitherto been administered. These considerations are paltry. They have been regularly stated in opposition to every one of the improvements to which the happiness of the world is owing, and they ought to be as regularly despised. The change which we recommend would necessarily create some alteration in a few parts of our criminal machinery; but the new forms would appear as natural as the old ones in a year. As to the impeachment of public officers, we disclaim it; and it is contemptible to set up the feelings of individuals, especially when these feelings are unreasonable, as obstacles to a public improvement, proceeding on a general principle. We must, however, add, that the straining by public men, but more especially by Judges and Accusers; to retain possession of discretionary power, is always the best evidence of the necessity of depriving them of it.

It is unnecessary, after what has been said, to explain the reasons in detail, why we think that grand juries, under certain regulations, would be beneficial. These reasons must at once present themselves



to any one who knows what grand juries are, and what our present system is. They would operate in Scotland as a protection to individuals, unjustly obnoxious, against unfair or rash prosecution. They would tend to prevent (what has been an infinitely greater evil, and would, if removed, go far of itself to correct the other,) the law from being unequally administered, by its terrors being liberally dealt out to one set of people, and very sparingly, if at all, applied to another. They would enable the Public Prosecutor to shake himself loose of violent and injudicious dependents, who have as often misled him as the higher considerations of party have done, and to rise superior to the degrading trammels of local faction. They would silence or at least lower the tone of murmurs against this branch of the administration of criminal law, by making the people feel, that if guilt went untried, or innocence was not safe from accusation, the error was committed by themselves. And, above all, they would accustom that great and most neglected body, the middle rank of the nation, to the direct and orderly exercise of at least one valuable political privilege, and would thus bind all classes together by a firm reliance on that equal justice which they themselves would assist to administer, and which would no longer present itself to their imaginations as depending on the will of a single man.

It cannot reasonably be expected that we should be able to illustrate this subject by examples; yet two instances occur to us as not unworthy of notice. In the year 1802, several people were shot by the military on the streets of Aberdeen. The Lord Advocate refused to prosecute. One poor man, whose son had been killed, raised a prosecution at his own instance, the costs of which were afterwards obliged to be defrayed by subscription. As the prisoners were acquitted, we must presume that they were innocent; and as the public prosecutor declined to institute the proceedings, we presume that he was right in this resolution. But who can have forgotten the great blow which this case gave to the confidence of the people in that part of the country, in the administration of our Criminal law? We assume that they were wrong. But still the fact is, that for many years the greatest discontent, founded on the supposed difficulty of getting the Crown to prosecute the military, unquestionably prevailed. Such feelings, however groundless, do not contribute to the respectability of the law, and, therefore, no preparation for their repetition ought to be made in its system. The whole of them might have been prevented, in this case, and in many others that might easily be referred to, by depriving the public of the pretence for ascribing what they may happen to complain of to the caprice of a single individual.

This was a case where, contrary to the opinion of the public, a person was *not* prosecuted. The same misfortune must arise where, in the same circumstances, a prosecution is ordered to take place. There is a letter from Duncan Forbes to the Secretary of State, of the 3d of August 1725, which affords a striking illustration of this. There had been a tumult at Glasgow upon the first imposition of the Malt-tax, for accession to which the provost and other five of the magistrates were committed to gaol. The proceedings of the culprits were said to have been so criminal, that Government directed some of them to be tried for high treason; and Forbes was of opinion, that this was really the legal character of their offence. The culprits, therefore, had a claim to the privileges attending a trial for that crime. But Forbes, who



knew the Scotch law better than ministry did, explained, with his usual candour, that there was a very easy way of avoiding the difficulties which these privileges implied. ‘*Though the crime,*’ says he, ‘*of the offenders may, in a very proper construction, amount to high treason, and though the present conjuncture undoubtedly demands the most exemplary punishment,* yet there are so many difficulties that lie in the way of making that punishment effectual, that I most humbly submit it to their Excellencies, whether it is not more expedient to carry on a prosecution, which will be attended with abundance of terror, and probably may end in a severe punishment, than to attempt a trial which, as matters presently stand, would certainly be fruitless.’ The reasons why it would be fruitless are, that ‘*in the disposition in which the country now is, it would be utterly impossible to pick up a grand jury,* for example, that would find bills against these rioters,’ &c. Another difficulty is, that supposing bills were found, *yet the liberty of peremptory challenges is such, that we could not possibly promise, out of the county where Glasgow lies, to find a jury that would bring the offenders in guilty.* Whereas a prosecution for felony, or any less crime, is not, by the law of Scotland, liable to either of these inconveniences. For there is no occasion for finding of bills or presentments. His Majesty’s Advocate, by his single act, *virtute officii,* gives the indictment; and, in the next place, by the law of Scotland, no such thing is known as a peremptory challenge; so that if we can find fifteen honest men for the jury, which is the number of Jurors in criminal trials in Scotland, we may have just hopes of success.’ He therefore proposes a trial for mobbing.

Duncan Forbes was the greatest and the purest man, in the management of her civil affairs, that Scotland ever produced. He lived in distracted times, and when the influence of public opinion was low, with almost universal power; yet the most confidential correspondence of his whole life has lately been given to the public; and it is impossible to detect a single line of it that is not beaming with patriotism, humanity, and honour. He was right even upon this occasion; for, if the law allowed him to deprive these culprits of a Grand Jury, it was his duty, in existing circumstances, to do so. But who does not see the importance which he attaches, as a protection to the people, to these Grand Jurors? The public and the Lord Advocate were at variance; and he fairly reveals, that, in such cases, the latter is not omnipotent so long as a Grand Jury must be consulted. The omnipotence of Forbes, on this occasion, was not dangerous. But what may be the case where a prosecutor, of a different character, is at variance with the public because he is wrong, and is disposed to turn his power against the liberties of his country, — or cannot resist the temptation of distressing an adversary, — or forego the opportunity of giving a momentary triumph to his provincial adherents?

It is no answer to all this to refer, as is commonly done, to the public spirit of the age, or to the responsibility of all the servants of the Crown. These checks are not to be depended upon with perfect safety, even in good times, and in bad times they cannot be depended upon at all. There are some who will never allow themselves to imagine that bad times can return. But this is a delusion which, though it be always encouraged by the immediate possessors of power, ought to be systematically resisted by every one who does not wish the blood and the groans of past ages to prove useless. Experience is lost if it be not turned to the purposes of futurity. It is a lamentable proof of the blindness and insensibility of men, that, merely because we happen to



be living agreeably in our own day, we should forget that it is not much beyond a single century since the whole of Scotland was suffering under the most frightful persecutions, judicially performed. If such a King as the last of the Stuarts were ever again to be upon the throne, we have no idea that he would be long without a minister like Lauderdale, or that such a minister would be much obstructed in his operations for want of an advocate like Mackenzie. Before such persons could subvert the government, they would, no doubt, require to alter the manners of the age, and to change many other things which have since been made to stand in the way of arbitrary power. But how many things would they require to change *in the principles of that particular part of our system* which recognizes a discretionary right of prosecution in a dependent of the Crown, uncontrolled by any legal obstacle interposed between him and those whom he chooses to spare or to accuse, — his prosecutions being accompanied by great power of imprisonment before trial, and conducted at last before a Court which names the jury, — has a right to declare acts to be criminal, for the first time, without a statute, — and whose decisions can neither be assisted nor questioned by any other Judges? And let no one lean too securely on the boasted humanity of modern times. We shudder, for example, at the idea of torture, and wonder what sort of people they must have been with whom it antiently prevailed. Alas! how few years of faction would it take to restore even this enormity in Great Britain, if it were not checked by positive law? It subsists, we believe, at this moment, though this be the nineteenth century, in almost every part of the Continent of Europe; it is not very long since something like it was said to have been restored for a season in Ireland; and it was only legally abolished in Scotland in the reign of Queen Anne.

Since, therefore, ‘it is true that in an arbitrary government, where the whole frame and order of things tends to make the favour of the sovereign the chief object of regard and the sole means of preferment, such an institution might be made an engine of injustice,’ we are wasting time if we do not prepare for the evil day. We are bound to supply those constitutional barriers which, though they may not absolutely prevent the recurrence of arbitrary power, always render its approaches more difficult and palpable. It is common to hear people talk of their determination to transmit the constitution unimpaired to their descendants. A meritorious boast. But we are afraid that, in Scotland, a good patriot must go somewhat further. If he merely transmits the constitution as he got it, he will give his posterity an inheritance for which they may not long have to thank him; for if there be no foreign or domestic calamity which shall extinguish all our liberties together, it may be considered as certain that the political system of Scotland must undergo complete revision. It is the duty, therefore, as it ought to be the glory, of each generation that is blessed with peace in its day for the task, to correct gradually what was neglected at the last great settlement; to look forward to the probable demands of an age not far off, and that will not demand in vain; to accelerate the era which, unless the progress of intelligence be stopped, is coming; and to send down the system not merely unimpaired, but greatly improved.\*

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\* In connexion with this article should be read one on the utility of the Office of Public Prosecutor, vol. xlii. p. 400.

## DISPOSAL OF PROPERTY BY WILL — ENTAILS — FRENCH LAW OF SUCCESSION — PRIMOGENITURE.\*

It is abundantly obvious, that the essential interests of society require, not only that an individual should have the unrestricted power of disposing of his property during his own life, but that he should feel assured of its descending to his relations or friends in the event of his death. No man can take any interest in the fate, or will ever exert himself to augment the fortune, of an unknown successor. But when he is assured that he is not labouring for a stranger, when he knows that the fruits of his industry and parsimony are to be enjoyed after his death by his children or friends, he feels, as it were, his existence indefinitely extended, and continues, with unimpaired energy, to exert himself to the latest period of life for the benefit of those who are to perpetuate his family and name, and whose welfare is perhaps still dearer to him than his own. The power of transmitting property to children or friends connects the future with the present. Without it, no one would amass a greater fortune than he expected to be able to consume, and no undertaking would be entered upon which did not promise an adequate return during the lifetime of the projector. But in civilized societies, the plans of the capitalist are not circumscribed by the brief duration of human life. He amasses wealth sufficient to maintain many individuals in a state of affluent independence, — he plants forests under whose shade he can never expect to recline, — he raises edifices fitted and intended to outlive many generations, — and executes innumerable improvements of which posterity can alone reap the benefit. And he does *all* this because he is enabled to transmit his property to those with whom he is connected by the tenderest ties, and in whose welfare he feels the deepest interest.

In the earlier ages of society, a man's children or relations are uniformly held to be his only heirs; and it is only in periods of comparative refinement that the advantage of the *libera testamenti factio*, or of giving to every individual an uncontrolled power of disposing of his succession, and of leaving it to strangers in preference to the heirs of his own body, or his relations, can be fully perceived and acted upon. Thus, we learn from Plutarch, that in Athens there was no power to devise property from the natural heirs previously to the age of Solon; and that legislator confined the privilege to those who died without issue, 'preferring in this case,' says his biographer, 'the tie of friendship to that of kindred, and choice to necessity.' In Rome, three centuries elapsed before a citizen could dispose of his property by a deed *mortis causa*, except such deed were sanctioned by the *comitia calata*, or assembly of the people; and in that case the will, as Montesquieu has remarked, was not really the act of a private individual, but of the legislature.† The same practice was followed by the antient Germans. '*Hæredes successoresque*,' says Tacitus, '*sui cuique liberi, et nullum testamentum: si liberi non sunt, proximus gradus in possessione, fratres, patrui, avunculi.*'‡ By the common law of England, for several

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\* Considerations on the Law of Entail.—Vol. xl. p. 351. July, 1824.

† Esprit des Loix, liv. 27. § 1.

‡ De Mor. Germ. § 21.



centuries after the Conquest, no estate, except it were only for a term of years, could be disposed of by testament : and in Scotland, up to a comparatively recent period, almost all a man's heritage, and a great part of the land he had purchased, if he possessed such only, were unalienable from the lineal heir.

But in almost every civilized and refined society, this strict rule of legal succession has been gradually relaxed ; and in some countries individuals have been allowed to dispose of their *whole* property by will to strangers, to the exclusion of their children and relations. This, however, is an extension of the power of bequeathing, of the expediency of which much difference of opinion is entertained. It is contended, that no one who has any property to dispose of should be allowed to throw his children destitute on society,—that the fear of total disinheritance should not be rendered an instrument of tyranny in the hand of fathers,—and that, before allowing a man to leave any portion of his fortune to strangers, he should be compelled to make an adequate provision for the individuals he has been the means of bringing into the world ; and to whom, independently altogether of any considerations of personal merit or demerit, he is under the most sacred obligations. But, though it must be allowed that the question is not quite free of difficulty, still we are clearly of opinion, that they are right who argue in favour of the unlimited power of bequeathing to strangers. None but the strongest possible reasons can ever justify a legislature in giving their sanction to any measure having a tendency to weaken the spirit of industry and economy in the people. It is plain, however, that if you interfere to regulate the disposal of property, you must unavoidably do this : if you enact, that however undutifully a man's children may have behaved, they shall notwithstanding be entitled to a certain proportion of his fortune, you will certainly paralyse *his* exertions, and must, for the same reason, render the whole society less anxious about the accumulation of wealth, which they are not to be permitted freely to enjoy, or dispose of at their pleasure. Neither is it possible to secure a certain provision to children without rendering them, in so far, independent of their parents, and weakening that parental authority which, though it may occasionally be abused, is yet, in the vast majority of instances, exercised in the mildest and most indulgent manner, and with the most beneficial effect. The more, therefore, we inquire into this subject, the more we shall be satisfied that it is always the safest policy to abstain as much as possible from making the relations of private life the objects of legislative enactments. The humanity of the law is but a sorry substitute for parental affection. If children be ordinarily well behaved, if they be not extremely deficient either in filial affection or common prudence, the principles and instincts inherent in our nature afford a sufficient security, that very few parents will ever be disposed to leave their property to others, to their exclusion. The interference of the Legislature in their behalf is therefore as unnecessary as it is pernicious. In those countries in which the greatest latitude is given to the power of bequeathing, the instances are extremely rare in which an affectionate and dutiful family have suffered from the circumstance of their father being allowed to leave his fortune to others : and it would undoubtedly be most impolitic to attempt to obviate an evil of such rare occurrence, by exempting children from the constant influence of a salutary check on their vicious propensities, and compelling a man to bestow on profligacy, extrava-



gance or idleness, that property which is at once the result and the appropriate reward of virtue, economy, and industry.

That a certain preference should be given, in testamentary dispositions, to the first-born son — to him who is earliest qualified to assist the labours of his father, and who, in the event of his death, is the natural guardian and protector of the rest of the family, is agreeable to the most obvious suggestions. In the patriarchal ages, this preference was very strongly marked; and several important privileges were attached to the circumstance of *primogeniture*. But in the Republican States of antiquity, where equality of fortunes and subdivision of property were considered as objects of the first importance\*, little consideration seems to have been attached to this prerogative. At Athens, the sons succeeded equally to the paternal property, the daughters depending for their dowry on the liberality and kindness of their brothers.† At Rome, when the father died intestate, all the children, females as well as males, were equally called to the inheritance of his possessions. And it is believed, that, previously to the Conquest, landed property in England was divided equally among the sons.

In modern Europe, however, the succession to landed estates has been generally regulated by the law of primogeniture. During the violence and confusion of the middle ages, almost all commercial and manufacturing industry was either suspended or destroyed. Land was the only species of property that had any thing like even tolerable security; and this security, deficient as it was, could only be enjoyed by the possessors of large estates, who could arm and bring together a considerable number of vassals and retainers to support and defend their rights. It was plainly, therefore, the interest of the landed proprietors to prevent their estates being split into small portions, and to transmit them entire to their successors. And as the military and other feudal services due by the possessors of fiefs to the Crown could be more easily and conveniently paid by one than by many feudatories, both parties found it for their advantage to prevent the subdivision of estates, by introducing and establishing the law of primogeniture, and the *custom of entails* — institutions which have given a new aspect to society in modern Europe.

Dr. Smith contends, that entails were altogether unknown to the antients, and that they were only introduced to preserve a certain lineal succession, of which the law of primogeniture first gave the idea. There are good grounds, however, for doubting the correctness of this opinion. When the right of bequeathing property to any particular

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\* Lycurgus divided the Spartan territory into a certain number of portions (*sortes*), which it was forbidden either to increase or diminish by succession, purchase, marriage, or otherwise; and, to obviate the inconveniences that might, in such circumstances, have resulted from the increase of population, the atrocious practice of exposing infants was permitted. (See Cragius De Republica Lacedæmoniorum, p. 199.) At Athens and Rome, the maintenance of the equal division of landed property was, as every one knows, one of the principal objects of their early legislators. In Judea, all the lands reverted to their original possessors at the end of every fifty years.

† This is a point respecting which there is some difference of opinion among critics. We have followed the statement of Sir William Jones, in his valuable Commentary on the Orations of Isæus. See his Works, vol. iv. page 204, 4to ed.



heir has once been recognized, the step seems easy and natural to the recognition of the right of the proprietor to name an indefinite series of heirs, and to prescribe the conditions on which they shall be entitled to hold the property. The *fidei commissa*, or trust-settlements of the Romans, were devised for the express purpose of retaining the estates of the individual making the settlement in the line of succession he had pointed out. In the latter ages of the empire, it was common to insert *prohibitive* and *irritant* clauses in the *fidei commissa*, exactly similar to those inserted in modern entails; and, as such settlements were sanctioned by law, they had the effect to entail property for the *four* generations to which their duration was limited.

The right of entail is founded by lawyers on the maxim of the civil law, that *unusquisque est rei suæ moderator et arbiter*,—or, that every individual has the *natural* right of absolutely disposing of whatever property he may have acquired by his industry. But it is absurd to suppose, that there can be any natural right to do any thing inconsistent with the general advantage of society. The question respecting the expediency of entails can only be decided by the test of *utility*—by a comparison of their effects, or of the advantages and disadvantages resulting from them. We shall very briefly advert to what seem to us to be the principal points that ought to be attended to in making this comparison.

In the *first* place, it is alleged in favour of entails, that they stimulate exertion and economy,—that they hold out to honest industry and ambition the strongest and safest excitement, in the prospect of founding an imperishable name and a powerful family, and of being remembered and venerated by endless generations, as their chief and benefactor; and, in the *second* place, it is said that entails form the only sure and solid bulwark of a respectable aristocracy, and prevent generations being ruined by the folly or misfortunes of an individual.

Now, admitting, as we unreservedly do, that the prospect of being able to found a powerful family, and of securing that property, which had been accumulated by a long course of active, laborious, and successful exertion, from the risk of being squandered by the inconsiderate projects or extravagance of any future individual, must act as a very powerful spur to the industry and ambition of the *original founder* of a family, it is obvious it can have no tendency to produce such effects in any of his successors. An heir of entail is in a great measure emancipated from the salutary influence and control of parental authority. His chance of succeeding to the property held by his father does not depend on the circumstance of his having deserved it—of his being industrious or idle, dissipated or sober. The succession to entailed estates is not regulated by the principle of *detur digniori*. Their occupiers have no power to change the established order of succession; they cannot exclude the worst to make room for the best of their sons; but must submit to see the properties of which they are in possession descend, as in fact they generally do, to the most worthless, undutiful, and depraved of their children or relations. Granting, therefore, that the institution of entails has a tendency, as it undoubtedly has, to make *one generation* active, frugal, and industrious, it is demonstrably clear that it must exempt *every subsequent generation*—that is, every subsequent heir of entail—from feeling the full force of some of the most powerful motives to such conduct. A system of entail causes the succession to property to depend, not on the good or bad



conduct of the individual, but on the terms of a deed, written perhaps a couple of centuries before he was in existence ! Its effect is, therefore, to substitute a system of fatalism in the place of an enlightened discrimination, — to throw property equally into the hands of the undeserving as of the deserving ; and it is plainly impossible it can do this without weakening the motives which stimulate men to act the part of good citizens, and strengthening those of an opposite description. When, therefore, we refer, as we ought, to the simple and decisive criterion of *utility*, it is immediately seen that the industry of *one* generation is not to be purchased by the idleness of *all* those that are to come after it ; and that it is hardly less injurious to allow an individual to appoint his remotest heirs, than it would be to deprive him of the power of nominating those who are to be his immediate successors.

As to the second point, there can be no doubt that a system of entail affords the best attainable security for the permanence of property in particular families ; and, as political power and influence must generally be founded on property, it might perhaps be advisable to allow the right of entail, to a certain extent, in countries where there are hereditary legislators.\* Even this, however, is a point involved in considerable difficulty. In England, where the power of entail has long been circumscribed within very narrow limits, it is found that the law of primogeniture is of itself sufficient to preserve property, for many generations, in the hands of a single family. But, although the power of entailing property on a noble family should be conceded, there can be no reason whatever why this power should not be restricted within certain limits, and made to vary with the entailor's rank in the peerage ; or why it should be extended to others. A system of inviolable and perpetual entail is highly injurious to the best interests of society ; and though the constitution of the country may be such as to require the privilege to be granted, under proper modifications, to a particular class, it is quite impossible it can ever be such as to require it should be granted to all. The state can never interfere to protect families, deprived of the prerogative of hereditary legislation, from the casualties to which they are naturally subject, by sanctioning a system of inviolable entail, without producing the most injurious results. It is the duty of every wise government to adopt such regulations as may have the effect to call forth the utmost degree of industry and economy among all classes of its subjects ; but most certainly it is no part of their business to inquire whether the frugality of those on the dicky, and the extravagance of those in the coach, bid fair to make them change places ; and still less to attempt to prevent that change taking place, by artificially protecting the property of the latter.

It is sometimes objected to entails, that they take land out of the market, or place it, as the lawyers say, *extra commercium*. We do not, however, think that this is in itself of much consequence. It is of no importance who are or who are not the proprietors of land ; but it is of the last degree of importance, that land should receive all the improvement of which it is susceptible, and that no system should be

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\* Napoleon did this. In order to counteract the effects of the law of equal succession established in France, he instituted the system of *majorats*, by which a senator could entail an income of 40,000 francs a year (1,600*l.*) on his eldest son. This, however, was one of the most unpopular acts of Napoleon's administration.



adopted which has any tendency to prevent the fullest development of its productive powers. There can be no question, however, that a system of entail has this effect. It prevents individuals who have no taste for agricultural pursuits, and who are ignorant of rural affairs, from disposing of their lands to others; while, by fixing the destination of the property, and preventing its being mortgaged in security for loans, it lessens both the desire and the power to execute improvements. ‘Compare,’ says Dr. Smith, ‘the present condition of great entailed estates with the possessions of the smaller proprietors in their neighbourhood, and you will require no other argument to convince you how unfavourable entails are to improvement.’ (ii. 87.)

We are happy to have it in our power to corroborate the view we have now taken of the effect of entails by the very highest authority. Lord Bacon, in his account of the origin of English entails, and of their final establishment by the statute of Edward I. (13 Edwd. I. cap. 1.) says, ‘The inconvenience thereof was great; for by that means the land being so sure tied up to the heir, that his father could not put it from him, it made the son disobedient, negligent, and wasteful; often marrying without the father’s consent; and to grow insolent in vice, knowing that there could be no check of disinheriting him. It also made the owners of the land less fearful to commit murders, felonies, treasons, and man-slaughters, as they knew none of these acts could hurt the heirs of their inheritance. It hindered men who had entailed lands, that they could not make the best of them by fine and improvement; because none, upon so uncertain an estate as for the term of his own life, would give him a fine of any value, or lay any great stock upon the land that might yield rent improved. Lastly, these entails defrauded the Crown and many subjects of their debts, because the land was not liable any longer than his own lifetime; whence the King could not commit any office of account to such whose lands were entailed, nor other men trust them with a loan of money.’ (Bacon *On the Use of the Law*.)

The statute of Edward I. was planned by the greater Barons to prevent the alienation and forfeiture of their estates, and was long maintained in all its vigour. Ultimately, however, its provisions were defeated by what Blackstone has denominated a *pia fraud*! Edward IV. observing how little effect attainders for high treason had on families whose estates were protected from forfeiture by entails, the lawyers, at his instigation, fell upon the device of breaking them, by a judgment in a feigned suit called a *recovery*. The inroad that was thus successfully made on the inviolability of entails led to others; and in the reigns of Henry VII. and Henry VIII. various acts were passed circumscribing the power of entail, and placing it almost on the footing on which it stands at this day.

In its present state, we are inclined to think that the English law of entail has come very near perfection. It seems to us to have hit the precise medium which it was most desirable to attain, by giving to every individual that degree of power to dispose of his property which is necessary to inspire him with the desire of accumulating a fortune; at the same time that it takes from him the power of naming an indefinite series of heirs, and of fixing the conditions on which his property shall be always enjoyed. An English gentleman can only entail his property on such heirs as are in existence when the deed is executed, or until the *first* unborn heir of entail shall have attained

the age of twenty-one; and though these heirs cannot alienate the estate, or encumber it with debt, they are allowed to grant leases, which are good against their successors for three lives, or twenty-one years.—Whatever may be the other defects of the law of England, we believe most of our readers will be of opinion, that there is little to amend in that part of it which has reference to entails.

The practice of placing land under the shackles of a strict and inviolable system of entail has been carried to a greater extent in Scotland than in almost any other country. This system was first established on a solid foundation by an act of the Scots Parliament, passed in 1685, which reduced heirs of entail to the condition of mere *tenants for life*, and gave the entailer the power of regulating the *perpetual* destination of the property. The ablest political philosophers and lawyers of the country have joined in condemning this system\*; and in 1764, the Faculty of Advocates, after agreeing by an immense majority (43 to 4) to resolutions against it, drew up the heads of a bill for restraining entails, on a plan suggested by Lord Kames, which, had they been embodied in a statute, would have had the effect to place the Scots system nearly on the same footing as the English. The project excited a good deal of discussion at the time, but it ultimately fell to the ground, and no vigorous attempt has since been made to check this destructive practice. Additions are every day making to the quantity of land in tail; and in many extensive districts there is hardly a single acre to be found that is not loaded with its fetters.

For these and other reasons, which we shall not take up the reader's time by recapitulating, we are clearly of opinion, that the power of making perpetual entails is one that ought not to be recognized. No man, nor set of men, ought to be allowed to erect themselves into infallible legislators for all future generations, by fixing the conditions on which their property shall be for ever enjoyed. In securing and perfecting the right of property, we must have a care lest we give it an unnatural and injurious extension, and render what would otherwise be the most powerful incentive to persevering industry and honest ambition, a source of idleness and profligacy. Sound policy would dictate, that every individual should be allowed to leave his property, under whatever conditions, not injurious to others, he pleases to prescribe, to heirs existing at the time when the deed is executed. For this will give every one a sufficient motive to be industrious and to accumulate a fortune. But if you carry the power of bequeathing farther, and enable individuals to chalk out an endless series of unborn heirs, who are to succeed to the property as tenants for life, you will undoubtedly lose more, by taking from all these heirs many of the most powerful motives to industry and good conduct, than you can possibly gain by the slight additional stimulus so great a power of bequeathing might give to the original entailer.

It results from these principles, that every individual should be allowed to bequeath his property to whatever heir or heirs he pleases, provided only that he or they are in existence when the deed is executed. This seems to us to be the only restriction that ought to be laid on the power of making testamentary bequests. It is impossible

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\* Among others we may mention the illustrious names of Dr. Smith, Lord Stair, and Lord Kames.



to interfere farther than this — to forcé, for example, an individual to leave a greater portion of his fortune to his eldest son than to the rest of his children, or to divide his fortune equally among them all, without occasioning the most pernicious results. But although we are fully convinced of the injurious consequences that must always flow from every attempt to regulate the succession to property by means of legislative enactments and compulsory regulations, we are no less fully convinced that the *custom of primogeniture*, or the custom of leaving the whole or the greater part of the paternal estate to the eldest son, to the exclusion of his brothers and sisters, is a good one, and has been productive of the greatest advantage. The prejudices of most political philosophers against the custom of primogeniture seem to us to rest on no solid foundation. Dr. Smith says, that it is a custom which, ‘in order to enrich one, beggars all the rest of the children.’ (II. p. 84.) But, so far from agreeing in this opinion, we cannot help thinking, that it is to this very custom that much of the industry, wealth, freedom, and civilization of modern Europe are to be ascribed; and that were it abolished, and a system of equal division of landed property established in its stead, all the children of landlords, the oldest as well as the youngest, would be reduced to a state of comparative poverty, at the same time that the prosperity of the other classes would be greatly impaired.

Fortunately this is a question — and in the whole science of Political Economy there is probably none of greater practical importance — which we are not forced to argue on merely speculative principles, but which we can bring to the test of actual experiment. We have long been witnesses of the effects of the custom of primogeniture as applied to the succession to landed property; and in France a law was enacted soon after the Revolution, which abolished all the previously-existing institutions and customs respecting the succession to property, and established a nearly equal system of division among the different children. This law has now been in force for upwards of thirty years; and a sufficient time has in consequence been afforded for observing its operation and effect. It is proper that the result of this most interesting and gigantic experiment should be generally known. Nor do we see how our pages could be better employed than in communicating to our readers and the public the information we are possessed of on this subject. It will, if we are not greatly mistaken, go far to put down most of the objections that have been made to the custom of primogeniture, and will at all events show the mischief of attempting to enforce a system of equal succession.

According to the law of succession now established in France, a person with *one* child is allowed to dispose of a *moiety* of his property as he pleases, the child inheriting the other moiety as *a matter of right*; if a person has *two* children, he is only allowed the absolute disposal of a *third* of his property; and if he has *more than two*, *three-fourths* of the property must be *equally divided amongst the children*, *one-fourth* only being left at his own disposal, either to increase the portion of his favourite child, or to leave to a stranger. When the father dies intestate, the property is equally divided amongst all the children, without respect to sex or seniority.

This law was intended to subvert the foundations of the old feudal aristocracy, from whose ascendancy France had suffered so much: and as the power and influence of the aristocracy must always be mainly



dependent on the extent of their property, it was certainly well calculated to accomplish its object. It is seldom, however, that a law adapted to a particular emergency can be maintained with advantage as a general rule of national policy. Lord Bacon, in noticing some of the laws of Henry VII., says, that he may be considered as the greatest English legislator after Edward I., and this because ‘his laws (whose marks them well) are deep, and not vulgar; *not made upon the spur of a particular occasion for the present*; but out of providence for the future, to make the estate of his people still more and more happy, after the manner of the legislators in antient and heroic times.’

Admitting, for the present, what however we very much doubt, that sound policy required not only to strip the *noblesse* of their oppressive feudal privileges, but also to force them to subdivide their estates, surely no one will therefore contend, that a law instituted for such an object ought to be allowed permanently to regulate the descent of all property in France! This law, considered in a general point of view, seems to us infinitely more objectionable than the establishment of a system of inviolable entail. By interfering to so extreme an extent in the disposal of the fruits of a man’s industry and economy, it must unquestionably weaken the motives to accumulation; while, by rendering *all* the children in a great measure independent of their parents, it will have the same injurious operation, in reference to a *whole family*, that the system of entail has in reference to a single child. Had this law been made to apply only to cases of *intestacy*, it might not, perhaps, have been worth while to disturb it; though, in so far as landed property is concerned, we do not think that it is in any case a sound rule. Every system which has for its object to enforce an equal division of landed property must necessarily occasion too great an increase of agricultural population; and must also operate to reduce landed property into such minute portions as will neither afford sufficient employment to the families occupying them, nor allow of their being cultivated in the most improved and cheapest manner. The strong predilection entertained by the great bulk of mankind for the pursuits of their fathers has been universally observed; and if this be true in general, it is particularly so in the case of those who are brought up in the country. But the existence of a law compelling every father to divide his estate equally among his children must obviously afford the greatest possible facilities for gratifying this natural inclination. It will give most individuals the power of continuing in that line of life in which they have been educated, and which must, in consequence, be endeared to them by all those youthful associations which exert so strong an influence over future conduct. When a family happens to be unusually large, or when the share of the paternal property falling to each of the children may not enable them to maintain themselves in nearly the same station as their father, some of the more adventurous and generous spirits will probably be disposed to sell their portion, and to engage in some other pursuit. But, in the great majority of cases, they will certainly continue to reside on the little properties they have received from their ancestors; and the process of division and subdivision will continue until the whole land has been parcelled out into patches, and filled with an agricultural population, destitute alike of the means and desire of rising in the world.

The institution or custom of primogeniture, by giving the estate to the eldest son, forces the others to quit the home of their father, and



makes them depend for their success in the world on the fair exercise of their talents and industry. We allow that the institution of primogeniture has a tendency to generate idle and dissipated habits in the eldest sons ; but, under such a system as that now established in France, some of the most powerful motives to exertion and parsimony are taken, not from one son only, but from the *whole children*. When the estate of the father *must* be divided, all his descendants are aware, from their earliest infancy, that they are, without any exertion on their part, to be secured against want ; and it is impossible to doubt that this feeling of security must tend directly to paralyze all their efforts, and to render all the younger children infinitely less enterprising than they would have been had they known that their condition in society was to depend almost entirely on themselves, and that they had little or nothing to expect from their parents. For what do we blame the poor laws ? Is it not that, by affording an extrinsic security against want, their effect is to render the labouring population less frugal, industrious, and provident than they would be were they thrown entirely on their own resources ? And will any one pretend to say that there is any thing so peculiarly excellent in the education of the children of landlords and squires, as to exempt them from feeling the full force of this principle ? Necessity is not merely the mother of invention, but it is so in a great measure also of the passion which stimulates us to endeavour to rise in the world, and to emerge from obscurity. If you would have a man display all the native resources of his mind, — if you would bring all his faculties and powers into full activity, — you must deprive him of every adventitious assistance, and render him exclusively the architect of his own fortune. It is not to those who have been born to a competency, but to those who have been bred in the hardy school of poverty, and who have raised themselves to eminence, that mankind are indebted for almost all those inventions and improvements which have so greatly extended the empire of mind over matter, and made such vast additions to the sum of human happiness. Notwithstanding its being the great avenue to power and emolument, it has been frequently remarked, that there is scarcely an instance of an individual possessed of 500*l.* a year of patrimony making any figure at the English Bar ! The same observation might be extended to most other professions, and it would be found to be generally true in them all. Security against want is, you may depend upon it, the greatest enemy to activity and persevering and arduous exertion : and if the institution of primogeniture has, as is really the case, a tendency to deprive a large portion of society of this security, and to compel them to enter with vigour and energy on the great *arena* of ambition and enterprise, this single circumstance is sufficient to throw the balance of advantage greatly in its favour.

It has been said, in favour of the equal partition of landed property among all the members of a family, that such is the mode in which the fortunes of merchants and manufacturers, and generally of all the monied classes, are actually distributed amongst their children, and that no bad effects have been found to result from it. But there is hardly any analogy between the cases. The children of a merchant or banker who have shared equally in the paternal property may, if they please to form themselves into a company, carry on the business with equal advantage as their father. But this can never be the case with the family of a landed proprietor. Farming cannot be advantageously



carried on by joint-stock companies. When an estate is divided into equal portions to each child, the paternal home will be deserted by all but the eldest son, and in general there will be as many separate mansions and families as there are children. But the degradation in the ideas of all classes respecting the mode in which gentlemen ought to live would probably be the worst effect of the establishment of a system of equal inheritance. The institution of primogeniture, by giving the great bulk of the father's property to the eldest son, not only compels the younger children to become industrious, but it also stimulates them to exert themselves to the utmost to emerge from the depressed condition in which they are placed, and to rise to an equality with their elder brother. We are also disposed to think, that the state and magnificence in which our great landed proprietors live, act as powerful incentives to the industry and enterprise of the mercantile and manufacturing classes, who never think they have accumulated a sufficient fortune until they are able to emulate the splendour of the landlords; whereas, had these great properties been frittered down by the scheme of equal division among children, the standard of competence would have been lowered universally, and there would, in consequence, have been less exertion among all classes of the community.

That the condition of the agricultural classes in France has been considerably improved since the Revolution is unquestionable. But it is not true that this improvement has been in any respect owing to the law of equal inheritance. It has taken place not in consequence of that law, but in despite of it. The abolition of the feudal privileges of the nobility and clergy, and of the gabelle, corvées, and other grievously oppressive and partial burdens and imposts, would of themselves have rendered the proprietors and farmers a great deal more respectable: but, in addition to these advantages, a great part of the property of the church and of the emigrants came into their hands at extremely low prices; and in consequence small properties were augmented, and fresh energy and vigour given to agricultural pursuits. Still, however, it is certain that the rapid division of landed property, and the continually increasing excess of the agricultural population, caused by the existing law of succession, have gone far to neutralize the effects of these advantageous circumstances, and form at this moment the prominent evils in the social condition of the people of France. ‘The population of that country,’ says Mr. BIRKBECK, ‘seems to be arranged thus: a town depends for subsistence on the lands immediately around it. The cultivators individually have not much to spare; because, as their husbandry is a sort of *gardening*, it requires a large country population, and has, in proportion, less superfluity of produce. Thus is formed a numerous but poor population. The cultivator receives payment of his surplus produce in sous, and he expends only sous. The tradesman is on a par with the farmer: as they receive so they expend: and thus 50,000 persons may inhabit a district, with a town of 10,000 inhabitants in the centre of it, bartering the superfluity of the country for the arts and manufactures of the town. Poor from generation to generation, and growing continually poorer as they increase in numbers, — in the country by the incessant division and subdivision of property, in the town by the division and subdivision of trades and professions, — *such a people, instead of proceeding from the necessities to the comforts of life, and then to the luxuries, as is the condition of things in England, are rather retrograde than progressive.*



‘ *There is no advancement in French society, — no improvement, nor hope of it.*’ — (*Tour in France*, 4th ed. p. 34.)

The Marquis Garnier, the very intelligent translator and annotator of the ‘ *Wealth of Nations*,’ in arguing in favour of the law of equal succession, contends that the passion which impels every rich man to extend his possessions, and to add field to field, will always effectually overbalance the principle of subdivision. But the rule established by the existing French law, that the estates of individuals having families *must be divided* at their death, will naturally induce the greater number to amass monied fortunes in preference to land. The facts, too, that M. Garnier has stated prove the very opposite of his theory; for they show that, while there is a very great demand in France for small patches of ground, there is very little demand for moderate-sized farms. Thus, M. Garnier informs us, and his authority is unquestionable, that a farm which would bring a yearly rent of 4000 or 5000 francs (160*l.* or 200*l.*) will not sell as a whole for above *twenty-five* years’ purchase; while, if it were divided into a number of small lots, it would most probably sell for *forty* years’ purchase! — (*Richesse des Nations*, tome vi. p. 179. ed. 1822.) This fact is pregnant with information; and with information, we regret to say, that gives the most unfavourable view possible of the state of France. It proves that agriculture is not prosecuted in that kingdom, as it is prosecuted in England, for the sake of realizing a profit on the capital employed in carrying it on, but in order to acquire the *means of existence*! With such a strong natural inducement to subdivide properties, and with a law forcing their subdivision, the prospect before France is certainly far from flattering. And no Frenchman, who is not perversely blind to the real interests of his country, can doubt that it is the duty of the government to exert themselves to the utmost to counteract this destructive system. If it is suffered to run its full length, properties will be perpetually lessening, until, to use the words of Mr. Young, ‘ you arrive at the limit, beyond which the earth, cultivate it as you please, will feed no more mouths; yet those simple measures which instigate to marriage will still continue. What then is the consequence but the most dreadful imaginable! By persevering in this system you soon would exceed the populousness of China, where the putrid carcasses of dogs, cats, rats, and every species of filth and vermin, are sought with avidity to sustain the life of wretches born only to be starved. Small properties much divided prove the greatest source of misery that can possibly be conceived; and this has operated to such an extent and degree in France, that *a law ought undoubtedly to be passed to render all division below a certain number of arpents illegal.*’ — (*Travels in France*, p. i. 413).

But if such was Mr. Young’s opinion in 1789, how much more reason must he have had for coming to the same conclusion now, when almost all the large estates then existing in the country have been broken up, and the succession to the smallest patches regulated by the principle of equal division among the children? Had an assembly been held for the express purpose of devising the means by which they could most effectually depress France, and bring her into the same hopeless situation as Ireland, we do not believe they could have hit upon any scheme so well calculated to effect their object, and to extinguish every germ of future improvement, as the institution of the law in question.



Every one knows that Normandy has always been one of the richest and best cultivated provinces of France; and yet Normandy is one of those provinces in which, under the old *regime*, the law of primogeniture had the most extensive and general operation. But instead of being improved, there is undoubted evidence to show that the agriculture and general appearance of the province is rapidly changing for the worse, under the existing law of succession. ‘I hear, on all sides,’ says Mr. James Paul Cobbett, who travelled through a great part of France *last* year, ‘here in Normandy, great lamentations on account of the effects of this revolutionary law. They tell me that it has dispersed thousands upon thousands of families, who had been on the same spots for centuries; that it is daily operating in the same way; that *it has in a great degree changed the state of the farm buildings; that it has caused the land to be worse cultivated; that it has caused great havoc among timber trees: and there are persons who do not scruple to assert, that society in France will become degraded in the extreme, unless the law be changed in this respect. I have been assured, that in many families of owners of land, the several members have come to an agreement with each other to act according to the antient custom, and thus prevent the parcelling out of their estates, and the extinction of their families. This may now and then take place, but generally it cannot; and it is clear, that if the present law remain, the land must all be cut up into little bits; that a farmhouse must become a rare sight; and that a tree worthy of the name of timber will scarcely be seen in a whole day’s ride.*’—(Ride through France, p. 169.)

The effect that this splitting of estates has already had on the population of France is most striking. In despite of all the massacres of the revolution, and of the bloody wars in which France was subsequently engaged, and in despite, too, of the loss of her foreign trade, and of the decay of many branches of her manufacturing industry, her population has regularly increased since the Revolution. In 1786, Necker estimated the population of France, exclusive of Corsica, at 24,676,000; and, inclusive of that island, at 24,800,000. In 1789, Pomelles, from a comparison of the registers of births, deaths, and marriages, estimated the inhabitants of France, including Corsica, at 25,065,000 individuals of all sexes and ages. A committee of the National Assembly bestowed a good deal of attention on the same subject, and the result of their inquiries gives a population of 26,363,000; though, from the circumstance of the taxes being diminished to the poorer classes in proportion to the number of their children, there is reason to suspect that this estimate may have been somewhat too high. In 1805, however, the population of old France amounted, according to an actual enumeration, to no less than 27,767,000; and at this moment it rather exceeds THIRTY MILLIONS! This is a great and an extraordinary increase: and as there has been no increase of manufactures, it is one which could not possibly have taken place but for the division of estates caused by the Revolution, and the law of equal inheritance. (*Peuchet Stat. Elem.* p. 226.)

Perhaps, however, the best illustration of the state to which landed property is tending in France may be deduced from the returns to the *contribution foncière*. It appears, from the tables given in a pamphlet of the Duc de Gaete (*Memoires sur le Cadastre*), published in 1818, that there were in 1816 no fewer than 10,414,121 taxable properties,



great and small, forming so many separate items in the accounts of the direct tax on landed property. They were as follows:—

7,897,110 properties, rated at 21 francs a year or under, producing 47,178,649 francs.

(Average 6 fr. for each property).

704,871 Do.	rated 21 to 30 fr.	producing	17,632,083	} 86,043,089
699,637 Do.	31 to 50 fr.	do.	27,229,518	
594,048 Do.	51 to 100 fr.	do.	41,181,488	

(Average of these three different rates, 43 fr. for each property.)

459,937 Do.	101 to 500 fr.	do.	90,411,706
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(Average 196 55-100th fr.)

40,773 Do.	501 to 1000 fr.	do.	27,653,016
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(Average 678 22-100th fr.)

17,745 Do.	1001 and above,	do.	31,649,468
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(Average 1783 55-100th fr.)

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10,414,121 sum tot. taxed properties, producing	-	-	-	282,935,928 fr.
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This statement does not give the number of *proprietors*, many of them holding properties in several *communes*, and being taxed in each. M. de Gaete, however, reckons that there are 4,833,000 individual proprietors; but as many of these are heads of families estimated at 5 persons, he gives 14,479,830 as the amount of the class of proprietors. According to this view, very nearly one-half of the population of France belongs to that class.

More than three-fourths of these 4,833,000 proprietors, say —

3,665,300 pay, upon an average, 12 88-100th francs yearly tax upon their property or properties, representing a yearly income of 64 francs, or 51s. Sterling; they are, in fact, day labourers, with a cottage and garden belonging to themselves	fr. 47,178,649
928,000 pay, upon an average, 92 78-100th fr. representing a yearly income of 464 fr. or 17 <i>l.</i> 11s. Sterling a year	- - - - - 86,043,089
212,636 pay, upon an average, 425 45-100th fr. representing a yearly income of 2127 fr. or 85 <i>l.</i> Sterling	- 90,411,706
18,848 pay, upon an average, 1468 fr. representing a yearly income of 7340 fr. or 293 <i>l.</i> 11s. Sterling	27,653,016
8,216 pay, upon an average, 3854 50-100th fr. representing a yearly income of 19,272 fr. or 77 <i>l.</i> Sterling	- - - - - 31,649,468

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4,833,000	fr. 282,935,928
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The Agricultural class in France then consists of —

1,421,000 proprietors and their families, living wholly, or mostly, on the net proceeds of land, with an income of from two to twenty thousand francs a year for each family. (80*l.* Sterling to 800*l.* a year.)

13,059,000 proprietors and their families, of the class of peasants, living partly by their labour, with an income of from 64 to 464 francs a year (2*l.* 10s. to 17*l.* 11s. Sterling) for each family.

4,941,000 agricultural labourers, who are not proprietors.

Therefore one-half of the population of France is composed of proprietors great or small, and one-sixth of agricultural labourers ; and altogether *two thirds* are employed in agriculture.

In no country of Europe is there such a vast body of proprietors ; and in no civilized European country, with the single exception of Ireland, is there so large a proportion of the population directly engaged in the cultivation, or rather, we should say, the torture of the soil. And yet the system is only in its infancy. Should it be supported in its present vigour for another half century, *la grande nation* will certainly be the greatest pauper warren in Europe ; and will, along with Ireland, have the honour of furnishing hewers of wood and drawers of water for all the other countries of the world.

In countries where capital is accumulating in masses, and where there are no vicious laws or habits to force the interminable division and subdivision of landed properties, the newest and most powerful machinery is applied to the cultivation of the soil, and the division of rural employments is carried to its fullest extent. But wherever property is very much frittered down, such methods of facilitating production can be but very partially introduced. In the greater number of French, as of Irish farms, it is impossible either to adopt a proper system of rotation in cropping, or to erect thrashing machines ; and in many instances the horses are the joint property of several sets of farmers ! Whatever increased supplies of food may be required in a country occupied by small farmers must be chiefly produced by an increase of animal exertion ; and raw produce must, therefore, rise in price with every increase of population, or as soon as it becomes necessary to cultivate any portion of inferior soils. There is, in such cases, no principle of improvement in operation to counteract the effect of increasing sterility. It is neither checked by improved machinery, nor by any expedients for saving labour. But being allowed to exert its full effect, society very soon becomes clogged in its progress, and its future advancement is rendered extremely problematical.

This, of itself, constitutes a fundamental and insuperable objection to every plan which has any tendency to divide landed property into minute portions. For surely nothing can be more palpably absurd than to attempt to increase the national wealth by sanctioning a system that must infallibly tend to check the progress of agricultural improvement, and consequently to raise the price of the necessaries of life, and lower the rate of profit.

But a minute division of landed property is not merely disadvantageous from its having a tendency to raise the price of raw produce : by preventing the most advantageous distribution of capital and labour, it must also exercise a powerful effect on *manufactured* commodities, and, by increasing the cost of their production, must contribute to enhance their real price.

In a country like England, where a highly improved system of husbandry is generally introduced, where farms are extensive, and where the most powerful machinery is employed in agricultural operations, only a proportionally small number of the inhabitants are employed in the cultivation of the soil. The rest are employed in manufacturing industry, or in carrying the products of the different districts of the kingdom to the places where they are in greatest request, and exchanging them for all the various products of all the countries and climates



of the world. The national wealth, and the comforts of all classes, are prodigiously augmented in consequence of this division of employments. The agriculturists of England do not spend their time in clumsy attempts to manufacture their own produce, and the manufacturers cease to interest themselves about the raising of corn and the fattening of cattle. The power of exchanging is the vivifying principle of industry. It stimulates agriculturists to adopt the best system of cultivation, and to raise the largest crops; because it enables them to exchange whatever portion of the produce of their lands exceeds their own consumption for other commodities conducing to their comfort and enjoyments; and it equally stimulates manufacturers to improve the quality and to increase the quantity and variety of their goods, that they may thereby be enabled to obtain a greater quantity of raw produce. A spirit of industry is thus universally diffused; and that apathy and languor, which is characteristic of a rude state of society, entirely disappear.

But if a country were generally divided into small farms, these effects could only take place to a very limited extent. Not being able to employ the best machinery, nor to carry the subdivision of employments to a sufficient extent, a much greater number of labourers would necessarily be engaged in the cultivation of the soil, and there would, of course, be a proportionally smaller quantity of its produce to dispose of to others. No one will presume to say, that the agriculture of France is in nearly so improved a state as that of Britain — that it is not in fact a hundred years behind ours — and yet, while *there are more than TWO-THIRDS of the people of France employed in this inferior cultivation, less than ONE-THIRD of our people suffice to carry on the infinitely superior system of cultivation adopted in this country!*\* It is in this single circumstance that the vast superiority of our domestic economy over that of the French chiefly consists. We carry on a vastly better system of agriculture with less than a half of the labourers they require to carry on theirs; so that the entire produce of the industry of the other half of our labourers, not engaged in agriculture, is so much clear gain, so much positive additional wealth, placed at the disposal of the people of this country, over and above what we should possess were our lands as much subdivided as those of France, and our agriculture conducted on the same plan. Here is the powerful spring that has contributed more, perhaps, than any other to enable us to carry our commercial and manufacturing prosperity to its present unexampled height, and which makes us advance in the career of improvement, notwithstanding we are burdened with a load of taxes that would press to earth the greater population of France! Let us not, therefore, by giving the smallest countenance to any scheme, either for dividing estates, or for building cottages on wastes, do any thing that might by possibility tend to increase the purely agricultural population of the country. The narrower the limits within which it can be confined, the better will be our agriculture, and the greater will be the surplus produce wherewith to feed and support the other classes of the society, on whose numbers and prosperity the wealth, power, and glory of the country must ever mainly depend.

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\* According to the census of 1821, there are 2,941,374 families in Great Britain, of which only 978,657, or *less than one-third of the whole*, are employed in agriculture.



The custom of equally dividing the paternal property, whether freehold or leasehold, among all the children of a family, has been long acted upon in Ireland. Sir John Davies, in his valuable tract, entitled ‘*Discoverie of the Causes why Ireland was never entirely subdued by the English,*’ mentions this as one of the customs that had mainly tended to perpetuate the barbarism and poverty of that country. ‘The custom of *gavel-kind*,’ says he, ‘did breed another mischief; for thereby every man being born to land, as well bastard as legitimate, they all held themselves to be *gentlemen*. And though their portions were never so small, and themselves never so poor, for *gavel-kind must needs in the end make a poor gentility*, yet did they scorn to descend to husbandry or merchandize, or to learn any mechanical art or science. Besides, these poor gentlemen were so affected to their small portions of land, that they rather chose to live at home by theft, extortions, and coshering, than to seek any better fortunes abroad.’—(p. 172. ed. 1747.)

So long, however, as the rearing of cattle formed the principal employment of the Irish farmers, the custom of *gavel-kind*, or the equal partition of property among children, was comparatively harmless: for as the pasture lands were generally let in immense tracts to opulent graziers, only a few individuals were required to feed and take care of the cattle, and these were not permitted to occupy any land. But in 1784 the Irish Parliament, then newly emancipated from the restraints under which it had previously laboured, attempted to stimulate the dormant energies of the people, by prohibiting the importation of foreign corn into Ireland, and granting very high bounties on the exportation of corn, the produce of the country. These measures, however worthily intended, have been productive of irreparable injury to Ireland. Even though capital had been as abundant in Ireland as it was deficient, it would have been impossible for a tillage farmer to have managed such large tracts of land as were previously held by single graziers. Not only, however, was the size of the farms greatly reduced, but the new occupiers, being for the most part exceedingly poor, were glad to buy whatever labour they could obtain, by granting the peasantry allotments of small pieces of ground, whereon they might erect cabins and raise potatoes. In consequence of this practice, the system of *gavel-kind*, which was always a greater favourite with the farmers and peasantry than with the *gentility*, has since been uniformly acted upon by all classes, except the proprietors of entailed estates, and has had the effect to split farms and multiply beggars — operations which are in truth almost synonymous — to an extent that could hardly have been conceived possible. In the counties of Clare and Limerick, and generally throughout Ireland, there are innumerable instances of farms of 400 or 500 acres, let between thirty and forty years since to a single tenant, and now occupied by from 50 to 100 and 150 families; and the aggregate population of the country has increased from 2,845,000, in 1785, to about SEVEN MILLIONS, at this moment!

A twofold consequence has resulted from this excessive increase of population. In the *first* place, there is not full employment for more than a *third* or a *fourth* of the actually existing labourers; and in the *second* place, they are now almost wholly reduced to an exclusive dependence on the potatoe for supplies of food. A small farmer, or even proprietor, with five, ten, or fifteen acres of land, cannot possibly contrive to subsist himself and family on wheaten bread and beef. He is



forced to resort to some inferior species of food ; and as the potatoe affords the greatest quantity of nutriment on a given extent of land, it is to it that he naturally resorts. Such have been the consequences of the extreme division of landed properties in Ireland ; and such too we observe are the consequences now actually resulting from the same cause in France. That country is threatened with the double curse of a redundant and a potatoe-feeding population. The cultivation of the potatoe has increased in a *tenfold* proportion in that country since the revolution. ‘ *Cet aliment précieux,*’ says the Count CHAPTAL, ‘ *qui rejetoit le pauvre, est admis aujourd’hui sur le table du riche, et on le regarde, avec raison, comme le plus puissant auxiliaire du froment.*’—(*De l’Industrie Française*, i. p. 147.)

We deny that there is any ground whatever for the assertion, so frequently made, that property in land is of all others the most active instigator to severe and incessant labour. It is true that the exertions of the proprietor of a little farm are not paralyzed by any apprehensions of his being turned out of his possession before he has reaped the reward of his labours : but, on the other hand, his certainty of a resource, his dependence on the produce of a small piece of ground, from which he cannot be ejected, and which will preserve him from absolute want, joined to the impossibility of his rising in the world, have the strongest tendency to foster lazy and indolent habits. A farmer can never calculate with certainty on getting a renewal of his lease. Unless he has accumulated some capital, he is always exposed to the risk of being thrown destitute on the world ; but it is not so with the small proprietor. He relies for support, not on capital, but on land. He is exempted from all chance of being turned out of his possession ; and cannot, therefore, have the same powerful motives to accumulate stock as the other. The small proprietors and farmers of France, Mr. Birkbeck informs us, ‘ having no means of improving their situation, submit to necessity, and pass their lives contentedly’—that is, in apathy ! The same is the case in Great Britain. ‘ Throughout England,’ says Mr. Young, ‘ there is no comparison between the case of a day-labourer and a little farmer ; we have no people that work so hard and fare so ill as the latter.’ And it is an indisputable fact, that those counties of Scotland — Kinross, for example — where property is very much divided, and the proprietors consequently poor, are uniformly behind in their agriculture, and are farmed in a much inferior style to those where estates and farms are more extensive.

We have no room to dilate on the probable consequences of the French law of succession on the political interests of the country ; but it would be very easy to show that they must be fatal in the extreme. Far from joining in the outcry that has so frequently been raised against the magnitude of the property in the hands of the aristocracy, we consider the existence of a numerous and powerful body of landed proprietors, without artificial privileges, but possessed of great natural influence, as essentially contributing to the improvement and stability of the public institutions of such densely-peopled countries as France and England, and as forming the best attainable check to arbitrary power on the one hand, and to popular frenzy and licentiousness on the other. It would be the height of absurdity to suppose that an agricultural population, feeding on potatoes, and without any means of rising in the world, should be very deeply imbued with a just sense of their own rights or of those of others. An agricultural population,

spread over a wide extent of country, has no point of re-union. Men only feel their own consequence, they can only act in a collective capacity, and with vigour and effect, after they have been condensed into masses and collected into cities. It is comparatively easy to animate the inhabitants of a large town with the same spirit; there is a sympathy in their joys and their sorrows; and the redress of an injury done to a single individual becomes, in some measure, the business of the whole. But with agriculturalists the case is different; they can always be trampled down piecemeal: they cannot act collectively; and must therefore submit themselves, with comparatively little resistance, to the yoke of the oppressor. Of all the arguments in favour of the minute division of landed property, that which supposes it would contribute to keep alive a feeling of manly independence seems the most futile and preposterous.\*

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#### VALUE OF COLONIAL POSSESSIONS.†

IN entering upon an examination of the supposed advantages of the colonial system, it may be proper, in the *first* place, to observe, that no inference can fairly be drawn in favour of the monopoly of the colony trade exercised by the mother country, from the mere circumstance of that monopoly being advantageous to her, unless it can, at the same time, be shown that it occasions no injury to the colony. It must be remembered, that a colony is not a part of a foreign state: it is an integral and constituent part of your own empire; and it is contrary to every principle of justice and of sound policy to attempt to enrich one province or district at the expense of the rest. The protection which every government is bound to grant to all classes of its subjects ought not to vary with the varying degrees of latitude and longitude in which they live. Had Jamaica been the mother country, and England the colony, we should certainly have thought, and most justly, that our distance from Jamaica was no reason at all why we should not enjoy an equality of privileges, or why we should submit to have our energies cramped and our commerce restricted, for the sake of affording employment to a few Jamaica ships and manufacturers. This is the proper point of view from which we should survey the restrictions on the colony trade. We should remember, that in whatever degree the monopoly is beneficial to ourselves by enabling us to sell dearer to the colonists, and to buy cheaper from them, than we should otherwise be able to do, it must to the same extent be injurious to them; and must, therefore, be entirely subversive of that equality of privileges and pro-

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\* A very able article in reply to this Essay appeared in the Westminster Review, No. IV. Baron de Stael's Letters on England may be consulted with advantage with respect to the practical effects of the French laws relating to the disposal of property.

† Substance of two Speeches delivered in the House of Commons on the 21st and 25th March, 1825, by the Right Honourable William Huskisson, respecting the Colonial Policy and Foreign Commerce of the Country. Vol. xlii. p. 282. August, 1825.



tection which every just and wise government must grant indiscriminately to all who are under its dominion.

2. But then we come, in the *second* place, to the question, whether the monopoly of the colony trade be *really advantageous to the mother country*: and here we have another opportunity of remarking the intimate connexion that always subsists between the sound principles of impartial justice and of public wealth. That equality of rights and privileges to which every subject of a free country has a just claim can never be encroached upon without checking the progress of national opulence. The *monopoly* of the colony trade, instead of enriching, has really tended to impoverish the nations who have established colonies. It is true, that the power reserved by the mother country of exclusively supplying her colonists with particular sorts of goods, may, when properly enforced, compel them to buy those commodities from her, which they might otherwise have obtained at a cheaper rate from a stranger. But of what advantage is this forced sale? Every people have some natural or acquired capacity for the prosecution of certain branches of industry in preference to others; and no proposition can be more true, or better established, than that the wealth of every people will be most effectually promoted by their confining their industry to those branches in which they have a superiority, and exchanging their surplus produce in these for commodities that can be more easily produced by others. But the colonial monopoly is diametrically opposed to this grand principle. If the monopoly, by excluding competition, occasions an artificial demand for our commodities, it is obvious it must also occasion an *artificial distribution of the capital and labour of the country*: it must divert a portion of them from some of the naturally beneficial channels into which they would otherwise have flowed, to force them into those where there is no real room for them, and where they will be useless the moment the monopoly ceases. It is quite visionary to suppose that any country can ever be enriched by such means; and yet, such is the only advantage of which the monopoly of the colonial supply can ever be productive. We say the *only* advantage; for, it is certain that if the mother country could furnish the colony with the commodities she wants as cheap as they could be furnished by any one else, the identity of language, and the various ties of relationship subsisting between them, would always secure her the exclusive command of the colony market, independently altogether of any artificial regulations. In point of fact, therefore, the monopoly is either useless or pernicious. It is useless when the mother country can furnish the colony with commodities at the same or a lower rate than others: and when she cannot do this, the monopoly, by forcing a portion of her capital and industry into employments for which she has no peculiar aptitude, but the contrary, is plainly and certainly pernicious.

The consequences of the American war have completely verified the truth of these remarks. No colonies were ever reckoned so important and valuable as those which now form the Republic of the United States. With the exception of Dean Tucker, Dr. Smith, and one or two more, the politicians of this country and the Continent firmly believed that the independence of the colonies would be decisive of the fate of England — that the Sun of Britain's glory would then set, and for ever! When the question of independence was first mooted in the House of Commons, it was indignantly demanded — would you ask a mighty giant voluntarily to shrink into a feeble and puny dwarf? But



it was found impossible to maintain this high tone. Independence could not be refused : and what has been the result ? Has Great Britain fallen from the high place she formerly occupied among the nations of the earth ? Has the emancipation of the colonies been in the slightest degree prejudicial to our wealth, commerce, or industry ? The reverse, as every one knows, is decidedly the fact. We have continued, since the peace of 1784, to enjoy every previous advantage resulting from our intercourse with the colonies ; and we have done this without being subjected, as was previously the case, to the heavy expense of maintaining armaments for the defence of such distant and extensive territories. The value of the commodities now annually exported from Great Britain to the United States is *upwards of seven times* the value of the commodities exported to the colonies previous to the war, and when we had the exclusive monopoly of their supply. Nor while we can afford to supply the Americans cheaper than they can manufacture at home, and cheaper than they can be supplied by others, is there the least risk of our losing their market. Our trade with the United States, now that they are independent, rests on quite as firm a basis as it did when they were subject to our regulations. So large a proportion of the capital and industry of each particular country is most profitably employed in producing commodities for the market of the other, that there is no reason to fear the trade will be rashly or capriciously interfered with. It is not an artificial, but a natural trade : it does not rest on the miserable foundation of bounties and prohibitions, but on the gratification of real wants and desires. And as it is equally advantageous to both countries, we may confidently predict that it will become still more productive of wealth, comforts, and enjoyments.

3. It has been repeatedly urged, that a colonial trade carried on under the protection of a monopoly is entirely exempted from those contingencies and revulsions to which the trade between independent nations is necessarily more or less liable ; and that the exclusion of competition always secures the command of the colony market. But we have already shown that the forced exclusion of competition is really of no advantage, but the reverse. Admitting, however, that it is an advantage, it is one that can never be reaped except from small and easily-guarded colonies. It is plainly impossible, supposing that the United States had continued to this hour a dependency of England, that the most rigid and severe enforcement of the exclusive system could have preserved us the monopoly of their market, had any competitors appeared in the field capable of underselling us. The whole navy of Great Britain, though it were doubled, would not be sufficient to guard the coast from the Mississippi to the St. Lawrence, from the intrusion of smugglers ; and the same thing is true of the West India islands. Cheap goods are sure to make their way through every barrier — *Per medios ire satellites amant.\** All the tyrannical regulations and guarda costas of Old Spain did not prevent her colonies from being deluged with the prohibited commodities of England, France, and Germany. It is, indeed, quite childish to suppose that any extensive market can ever be preserved by mere dint of customhouse regulations.

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\* Lord Sheffield states distinctly, that when the American colonists found they could import goods at a cheaper rate from other countries than from England, they had very little difficulty in evading our restrictions,—*Observations on the Commerce of America*, p. 248.



They are always productive of injury, and never of advantage. And we may rest assured, that our command of the American market depends at this moment on the very same principle — *the comparative cheapness of our manufactured goods*, on which it depended when we had a governor in every state; and so long as we preserve this single advantage, the preference we have hitherto enjoyed will continue, independently altogether of commercial treaties, Acts of Parliament, or Acts of Congress.

4. It has been further urged, in defence of the colonial system, that it ensures the regular and certain supply of the mother country with commodities which are the exclusive productions of the colonies; and that, in the event of these becoming free, we might be obliged to pay a monopoly price for articles which custom has now rendered indispensable. This apprehension appears extremely futile and unfounded. We often hear of the holders of colonial produce being subjected to the greatest difficulties from a disinclination on the part of foreigners to buy; but we never yet heard, and it may be safely affirmed that we never shall hear, of their refusing to sell. It is true that France, and indeed the whole Continent, was very inadequately supplied with colonial produce during a part of last war: but she was ill supplied, not because *her* colonies had been conquered by England, but because of the Continental system; — because she herself had resolved to exclude colonial productions from every market in which she had an ascendancy. We deny that a single instance can be mentioned of a nation wanting colonial produce, and willing to pay for it, being unable to obtain any quantity she required. Prussia and Germany, though they have neither ships nor colonies, are just as well and regularly supplied as either England or Holland; and they obtain these supplies in precisely the same way that we obtain them, — that is, by giving an equivalent portion of the produce of their land and labour in exchange for them. It is a radical error, indeed, to suppose that the supply of colonial goods *can* be monopolized. Sugar is not a staple product of the West Indies only; but of the East Indies, Brazil, Mexico, and Louisiana. The same may be said of coffee: and it is now clearly ascertained that the spices, which were formerly thought to be an exclusive production of the Moluccas, succeed equally well in Cayenne and other places. The commodities which we call Colonial, ought, in fact, to be called *tropical*; for they are to be found almost every where between the tropics; and the idea of monopolizing them is therefore wholly out of the question.

5. We have now gone over some of the more prominent of the advantages that are usually supposed to be derived from the monopoly of the colonial supply, and have shown that they are almost entirely imaginary. But there is one on which much stress has latterly been laid, and which deserves, therefore, a more minute examination. It has been said, that though the increased demand, caused by the forced exclusion of foreign goods from the colonial market, for certain species of commodities produced by the mother country, may not be *directly* productive of advantage to her, it is *indirectly* so, by enlarging the field for the employment of capital, and consequently raising the rate of profit. But it will be found that this statement, how plausible soever it may at first sight appear, is really just as untenable as the rest. The truth is, that *the rate of profit is not in the slightest degree dependent on the magnitude of the field for the employment of capital; but*



*that it is determined entirely by the productiveness of industry at the time.* Profits consist of the excess, or the value of the excess, of the commodities produced by the expenditure of a given quantity of capital and labour, over that original amount of capital and labour, or its value. It is plain, then, that they must be wholly unaffected by the mere *extension* of the field for the employment of capital, however great that extension may be. Suppose, to illustrate this principle, that ten millions of acres of land were added, by a fiat of Providence, to Great Britain; the effect that this addition to the soil of the country, or to the existing field for the employment of capital, would have on the rate of profit, would depend entirely on the circumstance, *whether this new land was of the same or of greater productive power than the poorest soils now under cultivation.* If it were of the same degree of productiveness as these poor soils, we might, if we chose, expend 500 or 1000 millions in its cultivation, but it is obvious that no addition would thereby be made to the *rate* of profit. If the farmer of the worst land now cultivated gets a return of 10 quarters or of 10*l.* for a certain outlay of capital, he will evidently get just the same return if he lays out the same capital on any other quantity of equally poor land. It is true, that if the new land added to the country were of *greater productive power than the worst quality now cultivated*, the rate of profit would rise; but it would rise, not because the field for the investment of capital had been enlarged, but because it had become more productive — because the same outlay of capital that yields only a return of 10 quarters or of 10*l.* on the last land now cultivated, would then perhaps yield a return of 15 quarters or of 15*l.*

But then it is said, that the monopoly of the colony trade has this very effect — that it renders the field for the employment of capital more productive as well as more extensive. We are told, and the authority of Dr. Smith is appealed to in support of this statement, that when new and naturally advantageous channels of foreign commerce are discovered, (and we shall concede that the same reasoning will apply if they are the result of a monopoly,) the merchants who first engage in them realize larger profits than ordinary, and that these larger profits tempt capitalists to withdraw their stocks from less lucrative employments, so that the supply of commodities produced for the home market is diminished; which, as the demand continues the same, necessarily occasions a general rise of prices and profits. But, among other services rendered by Mr. Ricardo to the science of political economy, he has shown the fallacy of this statement. It is clear, that after new channels of commerce are opened, whether by means of a monopoly, or otherwise, there must either be the *same*, a *greater*, or a *less* amount of the national revenue expended in the purchase of foreign commodities than before. If, in the *first* place, the *same* amount of revenue is laid out in the purchase of these commodities as before, there will be just the same amount of revenue to lay out on articles produced at home, and no change whatever will be occasioned: if, in the *second* place, a *greater* amount of revenue should be laid out in the purchase of foreign articles, then, as there must be a proportionally less demand for articles produced at home, a corresponding portion of the capital and labour previously employed in producing commodities for the home market will be set free, and will henceforth be employed in the production of the commodities sent abroad to pay the greater amount of goods imported; and hence it appears, inasmuch as every increased demand for



foreign produce necessarily brings along with it the means of procuring the augmented supply without requiring any additional capital, that neither prices nor profits could be affected by such an increase: and if, in the *third* and last case, owing to the greater cheapness of foreign produce, a *less* proportion of the revenue of the country should be devoted to their purchase, a less amount of capital would be required to produce the commodities exported to pay them; and the capital thus set free would, of course, be employed in producing the increased supply of commodities for the home market, on which the portion of revenue saved in the purchase of foreign commodities must, in future, be expended. And thus it appears, that in every case — whether the *same*, a *greater*, or a *less* proportion of the national revenue be laid out in the purchase of foreign commodities — the discovery or formation of new channels of commerce cannot of itself have any effect whatever on the rate of profit.

It is true, indeed, that if foreign commerce enables us to *import* corn, or any other article which necessarily enters into the consumption of the labourer, at a cheaper rate than it can be produced at home, it will have the effect to lower wages and raise profits. It is obvious, however, that this is a result that could not possibly be brought about by *the monopoly* of the supply of all the colonies and countries in the world. It does not depend on exportation, but on importation, — on liberty being granted to import corn from *those who can furnish it at the lowest price, whether they be dependent colonists or independent foreigners.*

II. But the colonial system has been productive of other and still more serious disadvantages. The double monopoly by which the colonists are not only obliged to *buy* all the foreign commodities they require in the markets of the mother country, but to *sell* their own surplus products in them, could not have been made effectual had foreign competitors been allowed to enter these markets with similar and cheaper goods. In order, therefore, that the colonists might be compelled to dispose of their peculiar productions exclusively in the markets of the mother country, the latter has been compelled to dismiss all foreigners from them, and to give the colonists the monopoly of her supply. It would be impossible, for example, to dispose of the sugars of Jamaica and Barbadoes in London, were the sugars of Brazil and Cuba allowed to come into fair competition with them. The latter have, therefore, been excluded; and while the British merchants have had a complete monopoly of the Jamaica market, the Jamaica merchants have had an equally complete monopoly of the market of Great Britain. There has thus been a *reciprocity of injuries, and not of advantages*; and the colony trade, instead of being a source of wealth, has been rendered, on both sides, a source of poverty, vexation, and disgust. Were it not for the perverse and most injurious regulations to which this system has given rise, we might supply ourselves with sugar from the East Indies or South America for a great deal less than it now costs to buy it from the West India planters. This is a much more serious loss than is generally supposed. Sugar has become a necessary equally indispensable to the poor and the rich. The quantity of West India sugar annually consumed in Great Britain may, we believe, be taken on an average at about 380,000,000 of pounds weight. And it has been repeatedly shown, that a reduction of the duties on sugar from the East Indies and South America, to the same level with those laid on West India sugars, would enable us to obtain as good sugar for  $4\frac{1}{2}d.$  per lib.



as now costs 6*d.*; but, taking the difference at only 1*d.* per lib., it would make on the above-mentioned quantity a saving of no less than 1,583,000*l.* a-year! \*

It is contended, however, that when a greater quantity of produce is imported into any country than is required for its use, and when the surplus is exported to foreigners, the price of the portion sold at home

\* It appears from a Parliamentary paper (No. 186, Session 1825), that the total quantity of all sorts of sugar imported into Great Britain and Ireland, in the year ended 5th January 1825, amounted to 4,413,147 cwts.; and the total quantity exported to foreign countries during the same year amounted to 998,947 cwts., leaving a balance of 3,414,200 cwts., or 382,390,400 lib. for home consumption. It appears also from the same Paper, that the total *nett* produce of the duties derived from sugar consumed in Great Britain during the year 1824 amounted to 4,223,241*l.*; and the total *nett* produce of those derived from sugar consumed in Ireland for the same year, to 418,663*l.*; making together an aggregate of 4,636,904*l.*

A valuable little work, containing a great variety of statistical details, recently published by Mr. Marshall of London, and entitled, ‘*Statistical Illustrations of the British Empire,*’ gives the following account of the

*Territorial Extent, Imports into England, and Slave Population of the British Colonial Possessions in the West Indies and South America, in 1823.*

COLONIES.	Territorial Extent in Stat. Acres.	Productions imported from, into Great Britain, in 1823.			Number of Slaves.		
		Cwts. of Sugar.	Coffee.	Gallons of Rum.	Male.	Female.	Total.
1. Jamaica - -	4,080,000	1,417,758	169,734	2,951,110	170,466	171,916	342,382
2. Demerara, S.A.	1,000,000	607,870	54,147	941,194	43,227	34,149	77,376
3. Barbadoes - -	239 000	314,630	236	351	36,733	41,612	73,345
4. Grenada - -	227,000	247,369	368	301,866	12,355	13,231	25,586
5. St. Vincents -	279,000	232,577	53	80,439	12,007	12,245	24,252
6. Trinidad - -	2,880,000	186,891	2,953	8,586	13,155	10,382	23,537
7. Antigua - -	256 000	135,466	none	28,241	14,454	16,531	30,985
8. Tobago - -	204,000	113,015	Do.	309,829	6,952	7,363	14,314
9. St. Kitts - -	38,400	76,181	Do.	42,944	9,505	10,312	19,817
10. St. Lucia - -	203,000	62,148	3,352	4,807	6,297	7,497	13,794
11. Berbice, S. Am.	1,500,000	56,000	18,537	74,221	13,007	10,349	23,356
12. Nevis - -	200,000	44,283	none	16,584	4,583	4,678	9,261
13. Dominica - -	230,000	39,013	17,136	14,310	7,919	8,636	16,554
14. Montserat - -	11,000	24,466	none	42,943	3,032	3,473	6,505
15. Tortola - -	80,000	21,583	Do.	16,168	2,975	3,485	6,460
16. Bermudas - -	50,000	3,415	769	218	2,505	2,671	5,176
17. Bahamas - -	500,000	986	120	none	5,529	5,279	10,808
Tot. British Colonies	11,957,400	3,583,660	267,464	4,833,844	364,701	363,808	728,509
From Do. indirect.	- - -	15,296	4,628	30,937			
Foreign	St. Thomas -	20,000	- - -	7,250	** The power of production in these territories is unlimited; considerable quantities go direct to Europe on British as well as on general account. From the seventeen British Colonies about 15,000,000 <i>lb.</i> of Cotton Wool, 2,000,000 <i>lb.</i> of Pimento, and various other articles, are also imported.		
	St. Domingo	19,000,000	- - -	44,422			
	Cuba - -	28,000,000	122,170	24,057			
	Colombia -	} vast, but	- - -	3,604			
	Brazil - -		71,438	12,467			
British INDIA - -	} fixed	219,580	36,734				
Total Import of Sugar & Coffee into Great Britain - - -		4,012,144	400,626				
Do. in addition Do. Do. into Ireland - - - -		190,809	17,223				



will be determined by the price paid for the portion exported. Now, it is said that this is the case with British sugar. We annually import about a *fourth* part more sugar from our Colonies than is required to supply the home consumption of the empire; and, as the surplus is sent abroad, to be sold in the markets of the Continent, in competition with the sugars of Brazil and Cuba, it is affirmed that the prices of sugar in the home market must be identical with them, and that the British consumer is not laid under the disadvantage we have supposed. But, though the principle stated in this argument is sound, there is a circumstance overlooked that renders it wholly inapplicable to the case in question. The truth is, that British plantation sugars in bond always maintain a higher value, by several shillings a cwt., than foreign sugars of the same quality; and the reason of this difference is, that we allow a drawback on every cwt. of refined sugar exported, which every one knows amounts to from 6s. to 7s. more than the duty payable on the raw sugar of which it is made; and this excess is, therefore, really equivalent to a bounty of 6s. or 7s. a cwt. on its exportation. In consequence, we export only refined sugars; and the effect of the bounty is to enable the refiners for exportation to give 6s. or 7s. a cwt. more for the sugars bought by them than they otherwise could give; and thus to raise, according to the principle already stated, the price of all the sugar in the market to the same extent. We have already seen, that the aggregate quantity of sugar imported into Great Britain and Ireland, during last year, amounted to 4,413,147 cwts.; and, supposing its price to have been, as it certainly was, advanced 6s. 6d. a cwt. by the operation of the bounty on refined sugar, it will follow that this bounty must have cost the home consumers of sugar 1,434,000*l.*, agreeing very nearly with our previous estimate.

A similar system has been adopted with respect to most other articles imported from our colonies. We defy any one to point out a single benefit, of any sort whatever, derived by us from the possession of Canada and our other colonies in North America. They are productive of heavy expense to Great Britain, but of nothing else. We are well convinced that it is a moderate computation to affirm, that these provinces have already cost us 60 or 70 millions; and, not contented with what we have done, we still continue to lay three or four times the duty on the timber of the North of Europe that we lay on the timber imported from Canada and Nova Scotia. We are astonished that Messrs. Robinson and Huskisson should tolerate such a system. Not only is it completely at variance with all the enlarged and liberal principles they have so often professed and acted upon, but it is in the highest degree injurious to all the best interests of the country. It has done much to cripple and destroy the advantageous commerce we formerly carried on with the Baltic; while it adds greatly to the price and deteriorates the quality of one of the most important articles imported into the country. And for whom is this sacrifice really made? For whom are the people of Britain made to pay a high price for inferior timber? The answer is obvious. Every man of sense, whether in the Cabinet or out of it, knows that Canada must, at no distant period, be merged in the American republic. And certainly John Bull discovers no very great impatience of taxation, when he quietly allows his pockets to be drained, in order to clear and fertilize a province for the use of his rival Jonathan.

But even these do not form the only burdens imposed on us by the

colonial system. It appears, from a Paper printed by order of the House of Commons, a copy of which is subjoined \*, that the mere military expense attending the government of our West India and North American colonies costs the Treasury of Great Britain, *in time of peace, little less than a MILLION A YEAR, exclusive of the revenue collected in them.* And they have the farther disadvantage of multiplying the chances of misunderstanding and contests with foreign powers, and of making a vast addition to the expense of war. †

Such being the case with respect to our colonial possessions, it is not easy to see how we could sustain any injury from the total breaking up of the colonial monopoly, or even from the total and unconditional abandonment of these dependencies. But besides the statements on which we have already taken the liberty to animadvert, the advocates of the colonial system contend that we cannot break up the monopoly; — they contend that we made a *contract* with the West India planters, by which they agreed to buy the foreign products they wanted, exclusively in the markets of England, on condition of their having the exclusive right to supply these markets with colonial goods; and that the planters, having embarked their capital on the faith of this contract, are entitled to claim its enforcement. Unluckily, however, for the West India interest, there is not even the shadow of a foundation for this statement. The Parliament of England never entered into any contract of any description whatever with the planters. They passed certain acts regulating the colonial trade in the same way as they pass acts in relation to any other branch of internal or external policy. But it was not stipulated that these acts were to continue in force for any specified time. Every one of them might have been repealed the

\* Abstract of the actual Disbursements of the several Commissaries upon Foreign Stations, charged in the Army Extraordinaries for the Year ending 25th December 1821, and paid by Great Britain, exclusive of the Revenues collected in the several Colonies, and other Expenses voted in the Army and Ordnance Estimates for that Year:—

1. Canada	-	-	-	-	-	£397,629	14	4 $\frac{1}{4}$
2. Nova Scotia and New Brunswick	-	-	-	-	-	105,586	2	4
3. Newfoundland	-	-	-	-	-	13,285	10	7 $\frac{1}{4}$
4. Bermuda	-	-	-	-	-	28,193	6	7 $\frac{1}{4}$
5. Bahama Islands	-	-	-	-	-	8,808	13	10 $\frac{1}{2}$
6. Windward and Leeward Islands and Colonies	-	-	-	-	-	321,480	8	10 $\frac{3}{4}$
7. Jamaica	-	-	-	-	-	114,818	15	6
						£989,802	12	2
8. Cape of Good Hope	-	-	-	-	-	171,012	17	2 $\frac{1}{2}$
9. Mauritius	-	-	-	-	-	41,100	7	4 $\frac{3}{4}$
10. Mediterranean	-	-	-	-	-	234,643	11	3
11. Gibraltar	-	-	-	-	-	118,383	8	0 $\frac{3}{4}$
12. Sierra Leone and Gambia	-	-	-	-	-	65,395	13	7 $\frac{3}{4}$
13. Heligoland	-	-	-	-	-	6,809	0	3 $\frac{1}{4}$
						£1,626,237	10	0

† ‘Exertions,’ says Lord Sheffield, ‘must be made somewhere during war; but it may be remarked, that *the expense of defending the West India Islands, by sea alone, during the last (American) war, cost Britain a larger sum than would purchase the fee-simple of these islands.* The detention of our fleet in the West Indies was a principal cause of the loss of America.’—*Observations on the Commerce of America*, p. 259.



year after it was enacted ; and, in point of fact, many of them have been repealed, and others very much modified, without any one ever presuming to say that a contract had been violated in doing so. What should we think were the landlords to insist that the Corn-law of 1815 was to be viewed in the light of a contract with them, and that Parliament was not entitled to repeal or modify that law without previously compensating them for any loss they might sustain from its abandonment? Would not such a monstrous doctrine be scouted by every man of sense in the country? and yet it is not one whit more absurd than the doctrine of those who contend, that we are bound, either to continue the colonial monopoly, or to pay the colonists for leave to abandon it. Opinions such as these are not only wholly destitute of any foundation in fact, but they are subversive of every principle of improvement. They would go to eternize the worst errors and absurdities, and are utterly inconsistent with all the ends and objects of government.

But the colonists farther contend, that although they had no right founded on the principles now stated to the monopoly of the home market, still we could not deprive them of it without gross injustice. They allege that the abolition of the slave trade has placed them under a relative disadvantage, as compared with the planters of Brazil and Cuba ; — that it has had the effect to raise the price of slaves, or, in other words, of labour in our colonies, much above what it is in the colonies of those powers who still carry it on ; and that justice requires we should either force those powers to abolish the slave trade, or restore the right of carrying it on to our own colonists, before we open our markets indiscriminately to all who have colonial products to dispose of. This is certainly the strongest of all the arguments advanced by the colonists in favour of their monopoly ; but it is, notwithstanding, destitute of any real weight. A slave who has been bred in the West Indies, who has been trained to habits of subordination and industry, is much more valuable than one who has been newly imported from Africa ; and it does not by any means follow, that because the latter fetches a smaller money price than the former, he is therefore really cheaper. The truth is, that the disadvantage under which our West India colonists labour, in coming into competition with foreigners, does not originate in their being prevented from importing fresh slaves, but in the inferior productiveness of Jamaica, and our other West India islands, compared with Cuba, St. Domingo, or Brazil. The fact of this inferiority was completely established by the evidence taken before the Privy Council in 1789 ; and if we maintain the colonial monopoly until our colonists can raise sugar as cheaply as it may be raised in Cuba or Brazil, we must maintain it until Providence shall have changed the soil of those countries !

But conceding that it might, under existing circumstances, be improper and impolitic to admit the sugar of Brazil and Cuba into our markets, on account of the additional stimulus it might give to the importation of slaves into these countries, that is no reason why we should exclude the sugar of such other foreign countries as have interdicted the slave trade. Now, this is the case with Columbia, with Louisiana, and with the colonies of Holland. No slave can be introduced into any of these countries ; and by allowing their sugar to be imported, we shall be introducing the sound principle of free and fair competition in the place of monopoly, without laying our own colonists



under any relative disadvantage, and without giving any encouragement to the slave trade ; while, if we exclude it, it is plain we do so, not because we wish to discourage the slave trade, but because we wish to foster and protect that monopoly which has been productive of so many evils.

Not only, however, do we exclude the sugars of the Dutch colonies, Columbia, and Louisiana, but we actually lay 10s. a cwt. of higher duties on the sugar imported from our own dominions in the East Indies than on that which is imported from the West ! Not satisfied with giving the West India planters a monopoly of the home market against foreigners, we have given them a monopoly against our own subjects in the East. It is impossible to speak too strongly in condemnation of this arrangement : not that we mean to insinuate that the East Indians have any right whatever to be *more* favourably treated than the West Indians ; but we contend that they have a clear and undoubted right to be *as* favourably treated. To attempt to enrich the latter, by preventing the former from bringing their produce to our market, or by loading it with higher duties, is not only to prefer the interests of *one* million, and those — we do not say it disparagingly of the planters — mostly slaves, to the interests of *one hundred* millions of subjects, but is totally inconsistent with, and subversive of, every principle of impartial justice and sound policy.

It is said, however, that slavery exists in Hindostan as well as in Jamaica, and that, by reducing the duties on East India sugar, and facilitating its cultivation, by allowing Europeans to purchase and farm land, we should not get rid of the evil of slavery, but would be merely substituting the produce of one species of slave labour for another. Now, admitting for a moment that this statement is well founded, still it is certain, from the cheapness of free labour in Hindostan, that no slaves ever have been or ever can be imported into that country. And hence it is obvious, that by substituting the sugars of the East for those of the West, we should neither add to the number, nor deteriorate the condition, of the existing slave population in our dominions, while we should save above a *million and a half* in the purchase of one of the principal necessities of life, at the same time that we subverted a system of monopoly, and laid the foundations of a new and extensive intercourse with India — a market which may be enlarged to almost any conceivable extent.

But it is much worse than idle to pretend to say that East India sugar should not be imported because it is raised by slaves as well as that which is imported from our colonies in the West Indies. There is, in fact, no room for a comparison between the state of the slaves in Hindostan and Jamaica. The former may justly be said to be freemen when compared with the latter. Our readers are already sufficiently acquainted with the condition of the slaves in the West Indies ; and the following extract from a work of Sir Henry Colebrooke, one of the ablest of the East India Company's servants, will serve to make them acquainted with the condition of the slaves of Hindostan. 'Slavery,' says Sir Henry, 'is not unknown in Bengal. Throughout some districts, the labours of husbandry are executed chiefly by bond servants. In certain districts, the ploughmen are mostly slaves of the peasants for whom they labour ; but, treated by their masters more like hereditary servants or like emancipated hinds, than like purchased slaves, they labour with cheerful diligence and unforced zeal. In



‘ some places also, the landholders have a claim to the servitude of  
 ‘ thousands among the inhabitants of their estates. This claim, which  
 ‘ is seldom enforced, and which, in many instances, is become quite  
 ‘ obsolete, is founded on some traditional rights acquired many genera-  
 ‘ tions ago in a state of society different from the present; and slaves  
 ‘ of this description do, in fact, enjoy every privilege of a freeman, ex-  
 ‘ cept the name, or at worst they must be considered as villeins attached  
 ‘ to the glebe, rather than as bondsmen labouring for the sole benefit  
 ‘ of their owners. Indeed, throughout India, the relation of master and  
 ‘ slave appears to impose the duty of protection and cherishment on  
 ‘ the master, as much as that of fidelity and obedience on the slave;  
 ‘ and their mutual conduct is consistent with the sense of such an obli-  
 ‘ gation, since it is marked with gentleness and indulgence on the one  
 ‘ side, and with zeal and loyalty on the other.’ Those who can find  
 any thing in this description similar to the condition of the slaves in the  
 West Indies, or who can found on it any argument against allowing  
 East India sugar to be imported on the same terms as that of our  
 Western possessions, must certainly be endowed with very peculiar  
 means of perception, and very extraordinary logical powers.

It is difficult, however, to drive the West Indians from the field. No  
 sooner has the fallacy of one set of arguments been exposed, than they  
 are ready with another. Not contented with endeavouring to show  
 that the monopoly of the colony trade is favourable to the wealth of the  
 country, they also contend that it is essential to its *security*! They  
 argue, that in the event of the monopoly being abolished, our markets  
 would be chiefly supplied with foreigners; and that these foreigners  
 would naturally be inclined, in imitation of the policy on which we  
 have so long acted, to lay such duties on articles exported in a foreign,  
 as compared with those laid on articles exported in a home ship, as  
 would cause the exclusive employment of the latter; and that our mer-  
 cantile navy being thus crippled, the ruin of our maritime power would  
 inevitably follow! But if the trade in colonial produce were quite free,  
 the constantly-operating principle of competition would effectually pre-  
 vent any foreign power from attempting to act in the way just men-  
 tioned; and even supposing a combination to be entered into for that  
 purpose, the supplies we could derive from the East would render it  
 quite nugatory and ineffectual.

Granting, however, that in the event of the colonial monopoly being  
 abolished, we might be obliged to use sugar that had been imported  
 exclusively in foreign ships, that would not render us in the least de-  
 gree disposed to question the propriety of its abolition. It has been  
 usually supposed, that an extensive mercantile is absolutely necessary  
 to the possession of a great warlike navy; and the most vexatious and  
 injurious restraints have been laid on commerce for the sake of forcing  
 the employment of ships and sailors. We are satisfied, however, that  
 this idea is wholly without foundation. All that is required for the  
 attainment of naval power is the command of convenient harbours, and  
 of wealth sufficient to build and man ships. However paradoxical it  
 may at first sight appear, it is nevertheless unquestionably true, that *the*  
*navy of Great Britain might be as formidable as it now is, or, if that was*  
*desirable, infinitely more so, though we had not a single merchant ship.*  
 It is admitted on all hands that the only use of merchant ships, in re-  
 spect to national defence, is the means afforded by them of breeding  
 up and training sailors, who may afterwards be made available to

the manning of the fleet. But why take this roundabout method? Why not breed up sailors directly in men-of-war? A sailor who has been bred in a merchantman has a great deal to learn before he can be a good man-of-war sailor. But if a sufficient number of men-of-war were always kept afloat, and manned wholly during peace with able-bodied seamen, then, it is obvious, that by taking on board the proportion of landmen and boys allowed by the Admiralty regulations, the supply of seamen might be kept up during war as well as during peace, independently altogether of the merchant service; at the same time that the crews would gain greatly in discipline and efficiency. Besides, it is perfectly certain, that until this system is adopted, the great and monstrous evil of impressment cannot possibly be got rid of. The number of sailors now on the peace establishment amounts to about 25,000, and there are very near 170,000 seamen employed in the merchant service.\* Now, suppose that a war broke out, and observe what the effect must be. Instead of 25,000, we shall then most probably want from 70,000 to 80,000 sailors for the fleet. But, instead of diminishing, war may probably increase the demand for our merchant ships; nor, while we retain the ascendancy at sea, is there any considerable prospect of its materially diminishing it. Unless, however, it were to *diminish the demand for merchantmen to the extent of about A HALF*, it is evident we should not be able to man the fleet without resorting to impressment. The fifty or sixty thousand additional sailors wanted for that purpose cannot be created by the publication of a declaration of war. They can only be got from the mercantile service: and if the merchants have a demand for them, recourse must unavoidably be had to impressment. Instead, therefore, of keeping so small a force as twenty or thirty thousand able-bodied seamen afloat during peace, that number ought to be increased to at least fifty or sixty thousand; and, if this were done, we should, on the breaking out of a war, be able, by sending the ordinary proportion of landmen and boys to sea, instantly to man such a powerful and effective fleet as would suffice to annihilate all those that could possibly be opposed to it; and we should do this without being obliged to resort to any sort of compulsion, and without giving the slightest shock to commerce. The improvement of the fleet, the abolition of impressment, and the relief of commerce from a multitude of oppressive restraints, are all objects of vast national importance. And to realize them all, we have only to act on just and fair principles — to keep an adequate number of sailors afloat during peace; and, instead of disgracing the country, and degrading the naval service, by filling his Majesty's ships with sailors kidnapped from merchantmen, and the sweepings of our jails, to make them nurseries for the instruction of the *volunteers* who are afterwards to lead them to victory.

This plan has been highly approved by many distinguished naval officers, and the only objection worth alluding to that can be made to it is founded on the score of expense. But, though it were to cost a few hundred thousand pounds a year more than the present system, we should think it a very miserable species of economy to hesitate about incurring such an expense, to give additional force and efficacy to our naval strength, and to rid the country of the injustice and misery caused by impressment. In point of fact, however, the plan

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\* Annual Finance Book for 1824, p. 369.



we have ventured to propose would really be less costly than that now acted upon. It would occasion a little more expense during peace ; but then it would not, as is the case under the present system, occasion any disinclination on the part of young men to enter the sea service, or have the effect artificially to raise seamen's wages, so as to afford them some compensation for the violence and unjust treatment to which they are exposed. 'The custom of impressment,' says Sir Matthew Decker, one of the most intelligent merchants that this country has ever produced, 'puts a *free-born British sailor on the footing of a Turkish slave*. The Grand Seignior cannot do a more absolute act than to order a man to be dragged away from his family, and against his will run his head before the mouth of a cannon ; and, if such acts should be frequent in Turkey upon any one set of useful men, *would it not drive them away to other countries, and thin their numbers yearly ? and would not the remaining few double or triple their wages ?—which is the case of our sailors in time of war, to the great detriment of our commerce.*'\* It might, perhaps, cost a little more, though that is an extremely doubtful point, to man the fleet under the proposed plan ; but as its adoption would most undoubtedly have the effect to reduce the cost of manning our merchant ships, and to abolish impressment, any expense incurred on the one hand would be infinitely more than compensated on the other.

It is perhaps unnecessary to advert particularly to the statements of those defenders of the colonial monopoly who tell us that its abolition would occasion not only the loss of the market the colonies afford for our produce, but that we should also lose the large revenue we derive from the commodities imported from them ! The fallacy of this statement is so gross and glaring as hardly to require to be pointed out. We should not certainly consume less sugar, coffee, or timber, because we were left at liberty to import these articles from whatever markets we chose. If we imported them from foreigners, then, as foreigners would not send us their products *gratis* — though, if they did, we presume it would not be thought a very serious calamity — we should obviously have to export the same quantity of goods to them that we now export to the colonies. It is evident, too, that it is the people of Britain who pay the whole of the *four millions* a year derived from the duty on sugar ; and, supposing the duty to continue the same, and the same quantity to be consumed, the revenue will remain constant, whether the sugar come from Java or Jamaica. No one has hitherto taken it into his head to affirm that the Chinese pay any portion whatever of the *three and a half millions* a year of duty derived from tea : but it would be just as true to say that they did this, as to say that the West Indians pay one single farthing of the duties laid on the commodities we are forced to buy from them.

In every point of view, then, in which this subject can be considered, it seems obvious that the restraints on the colony trade are alike impolitic and pernicious ; and that their abolition is imperiously called for by a just regard to the public interests. It is, indeed, most probably true, that the granting of liberty freely to import colonial products, either from our dominions in Hindostan, or from foreign markets, would be injurious to a considerable number of our West Indian planters and mortgagees. But that is no reason why the colonial monopoly should

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\* Essay on the Causes of the Decline of Foreign Trade, p. 24, ed. 1756.



be indefinitely extended. The real effect of the present system is to impose a heavy and most oppressive tax on the consumers of colonial produce in Great Britain, for the purpose of tempting a few planters and merchants — for they are but a few when compared to the rest of the community — to linger on in a business which they admit cannot support itself, and which must, therefore, be essentially disadvantageous. At the same time, we are ready to acknowledge, that no wise, just, and liberal government will ever rashly adopt any measure, however expedient and proper in itself, that might have the immediate effect to injure a considerable class of its subjects. Every change in the public economy of a great nation ought to be cautiously and gradually effected. The West Indians are entitled to demand that a reasonable time should be allowed them, either to withdraw entirely from their business, or to prepare for withstanding the free competition of foreigners; and they are also entitled to demand, that all those restrictions which fetter their commerce with other countries should be repealed previously to their being deprived of the monopoly of the home market. But this is *all* the West Indians can justly claim; and to grant them more, would be to make a wanton and unnecessary sacrifice of the interests of the vast majority of the public.

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We hope it will not be supposed, from any thing that we have now stated, that we consider the foundation of colonial establishments as, generally speaking, inexpedient. We entertain no such opinion. It is not to the establishment of colonies, provided they are placed in an advantageous situation, but to the trammels that have been laid on their industry, and the interference exercised by the mother country in their domestic concerns, that we object. Every individual ought to have full liberty to leave his native country; and occasions very frequently occur, in which governments may advantageously interfere to settle emigrants in foreign countries, and when the soundest policy dictates the propriety of their supporting and protecting them until they are in a situation to support and protect themselves. There can be no question whatever, that Europe has been prodigiously benefited by the colonization of America. The colonists carried the arts, the sciences, the language, and the religion of the most civilized communities of the Old World, to regions of vast extent and great natural fertility, occupied only by a few miserable savages. The empire of civilization has in consequence been immeasurably extended: and while the experience afforded by the rise and progress of communities, placed under such novel circumstances, has served to elucidate and establish many most important and fundamental principles in government and legislation, Europe has been enriched by the vast variety of new products America has afforded to stimulate the inventive powers of genius, and to reward the patient hand of industry.

But whatever may have been the advantages hitherto derived from the colonization of America, they are trifling compared to what they would have been had the European powers only left the colonists at liberty to avail themselves of the advantages of their situation, and avoided encumbering themselves with the government of extensive territories three thousand miles distant. Fortunately, however, a new era is already begun — *Novus sæclorum nascitur ordo!* The monopoly of the trade of America is now nearly destroyed, and her independence almost achieved. From Canada to Cape Horn, every port is ready to



receive adventurers from Europe; and a boundless field has, in consequence, been opened for the reception of our surplus population, and for the advantageous employment of European arts, capital, and skill. The progress of America is no longer problematical. She *must* continue, for centuries to come, to advance with giant steps in the career of improvement. The prodigious extent of her fertile and unoccupied lands, the mildness and salubrity of her climate, the variety of her natural productions, the immense extent of her inland navigation, the capaciousness and safety of her harbours, all conspire to secure her, for a very long period, against those revulsions and contingencies which are always affecting old-settled and fully-peopled countries, and mark her out as the seat of future opulence, science, and civilization.\*

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### THE SADLERIAN SCHOOL OF POLITICAL ECONOMY.†

‘ It is with fear and trembling that we announce to our readers the  
 ‘ alarming position in which they are placed. We doubt whether our  
 ‘ philosophical countrymen north of the Tweed are aware of their  
 ‘ past and present perils. We learn, upon the unquestionable autho-  
 ‘ rity of many most venerable friends of the Constitution in Church  
 ‘ and State, that a dangerous conspiracy has been formed, more fatal  
 ‘ than have been the schemes of the Carbonari to the Holy Alliance,  
 ‘ or the devices of Captain Rock to the worshipful company of Irish  
 ‘ Tithe-Proctors. Men of all classes have lent their aid to the vile  
 ‘ purposes of this guilty confederacy. They have obtained admission  
 ‘ into the Magistracy, the Legislature, and the Cabinet. Even the  
 ‘ Church and the Seats of Learning have not been exempt from their  
 ‘ mischievous influence. These dangerous and designing men call  
 ‘ themselves the Society of Political Economists. Having contributed  
 ‘ to destroy the Constitution of 1688, by introducing a free trade in  
 ‘ religion, they are now intent on breaking down those bulwarks which  
 ‘ the wisdom of our ancestors erected for the protection of our agri-  
 ‘ culture, manufactures, navigation, and commerce. As might be an-  
 ‘ ticipated, the factious Opposition have lent themselves to these  
 ‘ designs; but what is still more fatal, the infection has extended to  
 ‘ Whitehall and Downing Street. Mr. Huskisson and Mr. Grant were  
 ‘ not more formidable than are the Duke of Wellington and his col-  
 ‘ leagues; and the inscriptions which Mr. Vesey Fitzgerald has traced  
 ‘ on Mr. Courtenay’s ‘ *white paper*’ at the Board of Trade, deprive that  
 ‘ department of any claims on the confidence of the orthodox country  
 ‘ gentlemen. The author of a pamphlet on Currency is made a Bishop.  
 ‘ An expositor of the Apocalypse recommends cheap corn. A Pro-

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\* In the new edition of Adam Smith’s *Wealth of Nations*, edited by Professor M’Culloch, he acknowledges having written this Essay. The introduction to it, comprising a sketch of the rise and progress of the colonial system, I have omitted.

† 1. The Speech of M. T. Sadler, Esq., M. P., on the State and Prospects of the Country, delivered at Whitby.

2. *Storia della Economia Pubblica in Italia*, de Giuseppe Pecchio. Vol. I. p. 344. January, 1830.

‘fessor disseminates these atrocious doctrines at Oxford. Wise men from the East, — modern peripatetics, — deliver their lectures with pertinacious activity. The London University, the Society for diffusing Useful Knowledge, Mechanics’ Institutes, Encyclopædias, Treatises, Essays, Pamphlets, and Reviews, all labour in the same cause. Death has rescued England from the hands of one political Jacobin, but she may yet fall a victim to commercial Jacobinism, unless saved by the speeches of Mr. Sadler, and the letters of the Duke of Newcastle.’

We have endeavoured to give a faithful representation of the present opinions of the Ultra Tories, though in language more moderate than theirs, ‘The Political Economists,’ the new philosophers repeat, ‘have filled England with insolvency, starvation, crime, convulsion, and, in a word, with all the elements of national barbarism, bankruptcy, and revolution.’ Any reduction of duty on foreign goods is called ‘robbery and spoliation;’ a vested interest is discovered to exist in every anomaly and abuse; and the whole vocabulary of the ‘canina facundia’ is put in requisition to vilify and traduce many of our most eminent writers and statesmen.

The substitution of a party badge for a convincing argument has long been practised. No Jew Bill, Chartered Rights for ever, Church and State, No Popery, and No Free Trade, are, in modern times, what were the cries of St. George and St. Dennis in the days of chivalry. If we could conceive that the literary and political opponents of, what has been called, Free Trade, were earnest in their opinions, or candid in their reasoning, we might pity, though we could scarcely forgive them. But we are loth to think so meanly of their understanding as to place any great reliance on their sincerity. It is hardly possible that they can believe the doctrines they profess and preach. When the improvement and extension of machinery have, in their first operations, diminished the wages of labour, and thrown more produce into the market than the existing state of the commercial law enables the consumer to take off, this is imputed as a crime to Mr. Huskisson. When the cessation of a naval war has restored to foreign countries a share in navigation of which they were deprived by our monopoly, this is considered the act of Mr. Grant. When the enormous extension of the production of silk, encouraged perhaps by the inconsiderate repayment of duties, has lowered prices and wages, this is supposed to be the act of Mr. Vesey Fitzgerald. When the peace of Europe enables foreign countries to manufacture cotton, in place of making war; and when the young men, who would formerly have bled as conscripts in Russia and Spain, are now weaving cloth at Sedan, dyeing silk at Lyons, or forging iron at Charenton; — all this is said to be the effects of free trade. When the increased productiveness of our new colonies, the extension of cultivation in the colonies of other nations, and the surprising improvement in European sugar, diminish the value of Jamaica estates and mortgages, this is complained of as the results of the new system. The absurdity of these fallacies is so gross, as to be perceptible, even to those who utter them. But a more serious charge is yet to be made. At a time of extreme pressure, excitement, and privation, the ultra tory writers and orators adopt the very course so vehemently censured by themselves when pursued by the radicals, their ancient opponents, but present models. The vicissitudes of trade, each depression of the market, every bankruptcy at New York, or failure of



the wheat crop at the Cape of Good Hope, is imputed to parliament and to the ministers of the crown :

————— our lives, our souls,  
Our debts, our careful wives, our children,  
Our sins, lay all upon the King ! He must bear all.  
O hard condition !

If the state of manufactures, or the interest of the party, render a fall of wages necessary, there have been cases in which masters and employers have referred their discontented workmen to the Board of Trade and to the House of Commons, as responsible for the reduction. The resignation of a cabinet minister was made the occasion of an attempt to exasperate every lighterman and shipwright on the Thames into fierce and personal hostility ; and the manufacturers of Spitalfields were induced to waste, on empty and ridiculous processions, time and money, which, if better employed, might have contributed to the alleviation of their distress. As instances of the inflammatory and factious language now unhesitatingly employed, we shall not quote mechanics from Barnsley or orators from Spitalfields. Men of that description are entitled, at a time of distress, to much consideration and indulgence. But no such concessions can be claimed on behalf of grave and reverend personages, of mature years, who assume the functions of legislators, and aspire to the characters of statesmen. Where can we find language more mischievous than what has been addressed to the ship-owners of Whitby by the Coryphæus of anti-commercial principles, Mr. Sadler ? Having kindly endeavoured to demonstrate the total ruin of his audience, he proceeded to notice, as the first cause of the evil, the alterations on the Navigation Act. ‘ That Act,’ he observed, ‘ formed part of the naval constitution of England ; it was on the faith of that sacred engagement, for sacred it had become in the sight of successive generations of Englishmen, that you, gentlemen of Whitby, embarked your property, which is now much of it sacrificed and lost by *as direct an act of spoliation as if the same power had seized a portion of your estates.*’ When sentiments like these are expressed under such circumstances, the doubt suggested is not so much, whether the speaker is of sane mind, as whether he is entitled to be considered a good subject and an upright man. The innkeepers on the Dover road excited the laughter of the public when they petitioned Parliament against the Ostend and Calais steam-packets ; but when the apostles of the new school stigmatize competition as robbery and spoliation, we cannot help feeling emotions stronger than surprise or contempt.

Let us divest the opinions of these men of the jargon with which they confound their readers, and confuse their arguments, and we shall then be enabled to judge how far such principles can be acceptable to reasonable and well-judging persons. If translated into plain English, however pertinacious Justice Shallow and the Rector of Tything cum Boreham may continue, we doubt not that the manufacturers and traders will reject the offers of protection made by their injudicious friends. To the shipowners, the Sadlerian school first addresses itself. Even these philosophers can scarcely deny, that without commerce it would be vain to talk of navigation. Yet they would persuade the public, that, at a period of general pressure, high freights would contribute to the prosperity of our merchants, and to the extension of their sales. They would carry on the trade in French apples, Dutch cheese, and Flemish eggs, in vessels built and navigated as if they were



intended to cross the Atlantic, or to double Cape Horn. The intelligent shipowner will rejoice to find, that in the partition of trade, which is the inevitable consequence of a state of peace, England still retains the lion's share; whilst for a fine weather and cross channel trade, our neighbours (to use a mariner's phrase) can put to sea in a hencoop, the superiority of our ships and crews secures a preference for British bottoms where dangers are to be run and risks surmounted. A man of plain sense, in place of answering Mr. Sadler, would have pointed to the East Indiaman lying on the stocks, below his window; and though the vessel, a free trader, had the honour of bearing the name of the Earl of Eldon, and though a formidable likeness of the learned lord was fixed on its prow, judgment must have been given against the itinerant orator, without hesitation or delay. So long as the numbers of British vessels continue to increase, it is but silly sophistry to suggest the decline of our shipping interest; and the shipowners themselves know full well, that their ruin would be consequent upon any additional burdens cast on our commerce.

To the wool-growers, Mr. Sadler and his friends address themselves with peculiar emphasis, and assure them, that all their distress is attributable to foreign importations. Petitions are prepared and presented. All that is unfavourable to their theory is suppressed. The effects of home-speculation, keeping back the growth of several years, in expectation of the increase of price the operation tended to prevent,—the value of the carcase, which affords some compensation for the depreciation of the fleece,—the progress of luxury, making a superfine coat as necessary to the artisan as it was formerly to a lord of the bedchamber;—all these facts are kept out of view. It is said that Mr. Canning met one of the late Lord Sheffield's innumerable pamphlets in the library of some country friend. The tract is stated to have begun with a sentence like the following: 'There can be no doubt, that under a due system of protection the growth of British *wools* might be greatly increased, and that our domestic *wools* might eventually be enabled to stand the competition of the *wools* of the continent.' The day being gloomy, and the society not brilliant, the witty statesman changed every W into an F, and in this new shape he left the essay for the amusement and instruction of the neighbourhood. If we possessed this literary curiosity, we should republish it at our own expense, or recommend it to be subjoined as an appendix to some Parliamentary Report. At low prices, say the wool-growers, they cannot effect a sale; 'raise the prices artificially,' reasons Mr. Sadler, 'and you will command the market.' This may be taken as a fair specimen of the arguments with which one portion of the community is amused, and another deluded.

The leading principle of the new school is a denial of the benefits of cheapness. They maintain that it may be wise and expedient to pay dear for a bad article, whilst a good one may be procured at a lesser cost. If for dear and cheap we substitute the almost convertible terms scarce and abundant, the pestilent nature of this heresy is manifest. But it is contended, that corn is of all commodities that which it is expedient to procure at a price artificially high. In other words, not only the landlord, whose rents rise with the price of wheat, but the manufacturer, the labourer, and artisan who eats the quartern loaf without receiving rents, all have precisely the same interest. 'The country prospered,' it is said, 'when the quartern of wheat sold for



‘ 120 shillings ;’ *therefore*, it prospered in consequence of ‘ that price ;’ and to restore such blessed times the legislature is exhorted to use its most strenuous exertions ! Were the whole community producers and sellers of corn, the argument might possibly be entertained ; but when the numbers who grow corn are compared with those who eat bread, the sophistry becomes apparent. One class of the community, that of the tenants and farmers, have been caught by the notion, that high prices are beneficial to their interests. The delusion is, however, disappearing. Rents may and must be affected ; and where permanent contracts have been entered into, the rise of corn may improve the condition of the tenant. Such cases are, however, of rare occurrence, and in all the ordinary transactions between landlord and tenant, the latter will find his advantage in the large loaf.

Whilst the community are exhorted to secure for themselves and their children the advantages of a higher price for bread, — or, in other words, to secure to their families all the blessings of scarcity, — every attempt to reduce local or national burdens is considered not only ineffectual, but criminal. A whisper against high rents is construed an attack on the landed aristocracy. An endeavour to correct the vicious principle of the poor-laws is stigmatized as inhuman. To withdraw the encouragements which produce a redundant population is to counteract the dispensations of Providence. To settle paupers in comfort in Canada is to become the ministers of banishment and death. To call for a reduction in the malt or leather duties is rank jacobinism. To amend the licensing system, which restricts our peasantry to a liquor aptly called by Mr. Brougham, ‘ Justice’s juice,’ is to calumniate the unpaid magistracy. ‘ An inundation ’ of Polish oats (as it was termed by Sir Thomas Lethbridge) is as much feared as a general deluge ; and Messrs. O’Connell and Shiel are scarcely considered more dangerous than the transubstantiated wheat and Irish hogs landed weekly on the quays of Bristol and Liverpool.

When the new philosophers are driven to own that their principles, even if practicable at home, would necessarily exclude British enterprise from all foreign markets, they assure us that such a result is not to be deprecated ; that home demand is the one thing needful ; that a bold peasantry and an independent gentry are the real bulwarks of the state ; and that if our justices are reduced to the toast and ale of their forefathers, and their daughters to the grograms and russets of early times, all will be well. We doubt whether such a change would have been acceptable to Sir Roger de Coverley himself. By Will Honeycomb it never would have been tolerated ; and as for that philosopher and theorist, Sir John Falstaff, he was too fond of sack, and of the drapery of flame-coloured taffeta, to have sacrificed the foreign trade of England. Had these literary patriots consented to the change, our reformers would find further persuasion necessary before the Patronesses of Almacks would agree to recline on rushes, in the costume of Elizabeth’s maids of honour, as described by Sir John Harrington.

It has often been said, that all men are ready to apply a levelling principle to their superiors, maintaining with German precision the subordination of those below them. It is thus with many of the disciples of the new school, who, whilst their leaders lay down universal principles, claim each in turn so many exceptions, that the rule ceases to exist. All purchasers seek unlimited freedom, and all sellers unlimited pro-



tection. Dear sales and cheap purchases are required from Parliament ; but, as the entire community makes these very moderate and very consistent demands, it requires the ingenuity as well as the omnipotence of Parliament to discover means of gratifying the petitioners. As all parties admit the benefits of free trade, except where they are interested in producing high prices, the truth and wisdom of the system may be considered as demonstrated. The pre-eminence of the great soldier of antiquity was proved, not by the readiness with which his countrymen voted him the first place in honour, but by the unanimity with which he was given the second place, by the Athenian citizens, each of whom reserved the highest distinction for himself. The throwster approves of a repeal of all duties on raw silk, but would prohibit foreign organzine. The Coventry weaver claims foreign thrown silk free from duty, but demands protection against his Lyonesse competitor. The love of our nobility and gentry for cheap foreign luxuries is equal to their antipathy to cheap foreign corn. They would favour French wines, but prohibit Dantzic wheat. The planters consider a bounty of 1,200,000*l.* all too little for England to pay, to promote the growth of sugar and the continuance of slavery ; but name the lumber trade, and the colonist quotes Adam Smith and M'Culloch, and becomes a philosopher. Let us calmly ask, what conclusion a rational inquirer is to draw from these facts? Ought he not to reject the testimony of all who appear in defence of selfish interests? Let an agriculturist be challenged on the *voir dire* when he defends the corn laws, and an East India director when he praises the China monopoly. Each may be heard fairly and candidly as an advocate, but rejected as an incompetent witness, and a partial, if not a corrupt, judge.

The opinions of the Sadlerian school are scarcely more untenable than their mode of reasoning is inconclusive. When we defend the freedom of trade in the abstract, we are attacked as theorists and visionaries. — ‘ General principles,’ observed a late Member of Parliament, ‘ General principles will be the destruction of England.’ Not only are authors and philosophic reasoners disregarded by those who call themselves exclusively the practical men, but if one of their own class touch the dangerous implements of pen and ink, except to indorse a bill, or post an account, he, too, is proscribed, and stigmatised as a traitor and a renegade. Contrary to medical analogy, the merchant and manufacturer to whom the infection of Political Economy is communicated by inoculation, is in still greater danger than the writer who takes the disease in the natural way. Hence, Mr. Baring, Mr. Powlett Thompson, and Mr. Warburton are considered totally ignorant of trade, Mr. Ricardo of finance, and Mr. Mushet of coin and currency. Yet having thus *tabooed* all theories and theorists, when these gentlemen are answered by official accounts and returns — when their opponent is no longer Hume the philosopher, but Mr. Hume of the Custom-house, their indignation is still greater. They deny the accuracy of the very papers they have called for ; they suggest fraud in the officers who prepare, and the government who produce them. Time and figures, over which the gods themselves were not considered to have any power, appear to Mr. Sadler but as toils set for his innocence and credulity. He professes his ignorance of the mode in which public documents are ‘ managed ’ or ‘ made up.’ The enemies of theory, when contradicted by facts, are themselves driven back upon theory, and end as they began, by an appeal to the wisdom of our ancestors, and the principles of



the commercial constitution. They appeal also to their own experiences, like the Methodists; and endeavour, from a few instances of doubtful authority, to draw a general conclusion. They produce their brick, and they pass sentence on the building. Vanquished both on theoretical and practical grounds, to these gentlemen, who protest against both modes of reasoning, we may apply the words of the Irish drummer, at a military execution — ‘ Flog them high, or flog them low, ‘ there is no pleasing them.’

Again, when Mr. Malthus, in his invaluable work, announces that population and food *have a tendency* to increase severally in geometrical and in arithmetical progression, an outcry is raised not only against the proposition itself, but against what is termed the affected pedantry of the expression. But when the oracle of the school enunciates that ‘ the fecundity of human beings, under equal circumstances, varies ‘ inversely as their numbers on a given space,’ the statement, however absurd, is cited by the votaries of the shrine as the most profound discovery of modern science, and the most precise and forcible of all philosophical definitions.

It does not at the first appear very evident whence can proceed the desire of the old Tory party to raise a cry against freedom of trade. It may perhaps be, from discovering an analogy between commercial liberty and the other subjects of their aversion; — it may be, because the same party have opposed all measures promoting civil and religious liberty, free inquiry, liberal education, and a generous foreign policy; — it may be, because the same party have supported all prohibitions and restrictions, — the game laws, the slave trade, slavery itself, and all restraints and fetters on the press. A foreigner describes the general alarm that prevails in England against a common enemy — ‘ the Catch ‘ Cold;’ — and Goldsmith, the agitation of all London and Westminster at the cry of ‘ Mad Dog.’ In these cases the alarmists had some foundation to build on; but we are ready to stake Malthus against Sadler, (more fearful odds than any offered at Tattersal’s,) that all the efforts of party will never produce one placard in favour of high prices or dear bread. We do not mean to deny that our opponents reason fairly, in thus connecting commercial and political liberty. Without the latter, the advantages of the former can never be fully experienced; and freedom of trade, developing industry, producing wealth, and promoting independence, necessarily leads to political liberty. M. Pecchio is consequently right, and does not wander into declamation when he opens his work with the following very eloquent passage: — ‘ La libertà non ‘ è un nome vuoto, non è un ente imaginario, ma una reale e potente ‘ benefattrice de’ popoli. Essa opera i suoi prodigi col centuplicar le ‘ forze della mente e del cuore, mediante l’emulazione che risveglia, ‘ colla sicurezza che offre alla proprietà e alle persone senza di cui ‘ non vi può essere né industria né commercio; infine colla convergenza ‘ di tutti i pensieri e di tutti gli interessi verso il bene comune. Mentre ‘ il filosofo isolato nel suo gabinetto stenta a ritrovare il punto in cui si ‘ riuniscono tutti gl’interessi personali, la libertà lo ritrova immanti- ‘ nente. Un popolo senza libertà è simile a un sordo e muto; vi vuole ‘ un miracolo della scienza per indovinare le sue malattie o i suoi bi- ‘ sogni. Il popolo libero ascolta chiunque vuole istruirlo, ed a vicenda ‘ parla, illumina e dirige, il proprio legislatore.’—P. 14.

We hope that the preceding observations may not be so far misunderstood as to be considered a denial of the distress now existing; or,



still less, as betraying any indifference to the sufferings of any portion of our countrymen. That distress we admit, and we deeply deplore. But we still contend, that those distresses, so far from being produced, have been mitigated, by the new system. The effect of a cessation of a war demand, and of a war monopoly of commerce, acts directly on many important interests. During the late war, annual millions were taken off in loans, which, in many cases, produced an increased and artificial demand for our manufactures. In the present times, on the contrary, this accumulation is vested in manufactures and industry; and in place of creating, as formerly, a new demand, it now augments the supply. Let it be supposed, for illustration, that during any year of the war, a loan of 2,000,000*l.* was subscribed, and expended in scarlet cloth and arms: at Birmingham and Stroud, an immediate stimulus was given to the manufactures of both places, and prices rose. In peace, no loans being raised, the 2,000,000*l.* remain in the pockets of individuals, and are by them applied in increased production. According to our first illustration, a new demand is created, and, by our second, an additional supply is poured into the market. Prices will have a tendency to fall, profits to be diminished, and manufacturing distress will ensue. The effects of machinery, at a period of falling prices, are also most remarkable and important. In a simple state of society, a cessation or diminution of demand soon produces a corresponding influence on production, till prices are re-adjusted. If he cannot sell his web, the cottage weaver becomes an agriculturist; if wheat falls, and house property augments in value, the farming labourer becomes an attendant on the bricklayer or stone-mason. But an iron-forge, or a power-loom factory, cannot be diverted from its original destination; and its proprietors continue to work it, even in the face of a falling market and of reduced profits, in order to secure some interest, however small, on their fixed capital. The extreme delicacy of some of the machinery used in manufactures renders it necessary that work should be continued even without profit, lest the machinery should perish by being left inactive. The rapid improvements in machinery, though increasing the sum of national wealth, produce for a time great pressure on individuals. An enterprising merchant may, in 1829, have invested his disposable capital in machinery, which in 1830 becomes valueless by the competition of an improved invention. It is thus that the linen-weavers and hand-spinners in Ireland are giving way to the manufacturers of Yorkshire and Scotland; and the effects of the improved machinery of Leeds and Huddersfield are felt in Wilts and Gloucestershire. The increased production, all over the world, is however the principal cause of the fall of price. If the banks of the Mississippi, and the Mauritius, double and triple the supplies of sugar, how is it possible that high prices should continue for the benefit of our West India planters? The subject of currency is too large and too important to be touched upon incidentally; but we may be allowed to remark, that the suppression of small notes, for which the political economists are held responsible, so far from being founded on the principles of free trade, is in opposition to them. Were the business of banking freed from monopolies, so far from requiring a prohibition of any particular species of currency, the abstract principles of free trade would allow the banker and the public to decide what denomination of note would contribute to



their mutual interest and security. Convertibility, and a full disclosure of banking accounts, would then be relied upon as a sufficient protection.

In thus recapitulating, briefly, the principal causes which produce the existing distress, it has been our object to prove, that, whether they are artificial or natural, permanent or transitory, so far from being the results of free trade, they arise, at least in part, from the want of it. If French wine is so abundant as to be poured out in the streets, to avoid the payment of duty, — if British iron is unsaleable, it is clear that a mutual exchange would be a mutual benefit. If Poland requires our cottons, and our manufacturers require cheap bread, is it not evident that a more liberal system of intercourse would improve the clothing and food of the inhabitants of Dantzic and of Manchester? The artificial high price of any commodity, which is not only the effect, but the object, of all commercial restrictions, leaves a smaller amount to be expended in other articles. The high price of corn re-acts in this way, against the very interest of the agriculturist. ‘Quiconque aura dépensé dix écus de plus en pain dépensera dix écus de moins en viande, en bière, et sans calculer que le boucher et le brasseur eux mêmes sont obligés de consommer moins, que d’autres souffrent de leurs épargnes, et sont par consequence obligés de restreindre leur dépense.’—(Schmalz, *Econ. Pol.*)

We would fain address one word more to the ultra politicians, and warn them against indulging hopes which can never be realised. Were they in full possession of the Cabinet, and did Mr. Sadler himself preside over the Board of Trade, they would still find their own system wholly impracticable. They might, indeed, endeavour to reverse what they term, ‘the most cruel policy that ever was ventured upon by any government, to say nothing of its folly.’—(Sadler’s *Speech*.) They might condemn all freedom of intercourse, and commercial reciprocity, ‘as the most disheartening and prejudicial of all systems.’ They might term the opinions of Mr. Malthus, ‘a diabolical doctrine, beginning by affronting God, and ending in injuring man; leading, if it were true, to short and infernal remedies.’—(Sadler’s *Speech*.) All this, they might repeat with authority; but maintain their principles of prohibition, never. Under their system, Captain Johnson, the smuggler, would be more than a match even for a minister as powerful as Mr. Pitt. The Deal boatmen would defeat the Chancellor of the Exchequer, as certainly as the respectable gentlemen of ‘another religion’ overreach the first Lord of the Treasury in dealing for annuities on the Stock Exchange. The smuggler may be considered as the antagonist muscle, or the balance weight to all the authorities of Downing Street; and he interposes effectually to remedy the injustice of the law, to check financial rapacity, and to punish official blunders and selfishness. Filangieri, in his remarks upon the antient commercial system of England, makes the following rational observations:—‘Si crede comunemente che i dazi imposti sull’ estrazione delle mercanzie nazionali, sieno un male, ma che quegli imposti sulla immisione delle straniere sieno un bene per lo stato. Il governo Britannico che ha sempre cercato l’ estrazione delle mercanzie nazionali, ha esorbitantemente caricato di dazi l’ immissione delle straniere. Qual’ è stato l’ effetto di questo erroneo sistema? 1° La molteplicità de’ contrabbandi, che le pene le più severe non possono impedire,

‘allorchè sono uniti ad un gran beneficio. 2<sup>o</sup> La diminuzione del suo commercio di economia.’ These doctrines would make their impression. Ultra ministers would, like Galen, be converted by their own dissections: we protest, however, against allowing the people of England to be anatomised by them. They would be compelled to embrace the principles of their opponents, and would bless those whom they had been called to curse. Narrow and selfish views of private interest cannot, we are confident, be long maintained, even by the Ultras themselves, but must yield to the more generous principles of an enlarged and enlightened policy. ‘Omnino qui reipublicæ præfecturi sunt duo præcepta teneant. Unum ut utilitatem civium sic tueantur, ut quæcunque agunt ad eam referent, obliti commodorum suorum: alterum ut totum corpus reipublicæ curent, ne dum partem aliquam tuentur reliquas deserent.’

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### THE POOR LAWS.\*

#### CAUSES AND CURE OF PAUPERISM.

AN advocate for charity, in any of its forms, has always, at first sight, much to recommend him to the partiality of his auditors. He is doing something for the interest of humanity, in the shape of a positive service: he is making a movement, to which he is prompted, in all appearance, by an impulse of kindness: he is exercising his thoughts and lifting his voice in behalf of distress; and there is something in the mere aspect of such an exhibition that is calculated to prepossess his observers, and to hold him out in a light of very advantageous contrast, either with the selfishly indifferent, who care not about his projects, or with the actively hostile, who oppose them.

On the other hand, an opponent, not of charity, but of some of its particular forms, has often much in the shape of initiatory dislike and prejudice to struggle with. However much he may prevail in the argument, and, at the conclusion of it, may vindicate his character as an enlightened friend of the species, he has not unfrequently to brave the hazard and the resistance of a most unpopular outset. The public are apt to be revolted by that array of hardihood which a mere reasoning philanthropist is so likely to throw around his speculations; and, should he at length succeed in carrying their acquiescence along with him, this is an object for which he must fight his way at one time through the gentler remonstrances of an alarmed delicacy, and, at another, through the clamours of a boisterous and reproachful indignation.

This, in no one instance, has been so strikingly exemplified as in those speculations about the nature of charity, which were in a great measure originated by Mr. Malthus, and from which many have been led to infer, that every public and proclaimed provision for the relief of general indigence is not only utterly incompetent to the attainment of its object, but has the effect of perpetuating and extending the

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\* Minutes of the Evidence taken before the Committee appointed by the House of Commons to inquire into the State of Mendicity.—Vol. xxviii. page 1. March, 1817.



very distress which it proposes to alleviate ; and that, therefore, it had been better, could the sufferings of poverty have been left to the hands of private charity altogether. In opposition to this, the actual cases of want are brought out in full enumeration ; and all the circumstances of pathos, by which they are accompanied, are impressively dwelt upon ; and the direct and visible relief they obtain from our existing institutions is too apparent to escape the commonest observation ; and the fact, the unquestionable fact, is at all times appealed to, and set up in resistance to the fearful uncertainty of committing such cases to such accidental impulses of compassion as they may awaken in the neighbourhood where they occur : and thus it is, that the antagonists of this new doctrine are, in the estimation of a very large part of the community, placed on the vantage ground, both of feeling and of historical example ; while its friends are looked upon as having nothing else to urge in their behalf than the plausibilities of a barbarous and untried theory.

To temper the force of these execrations, it is alleged by the followers of Malthus, that many of the cases in question are the product of the charity itself ; that, after a public institution has done its uttermost, it leaves a surplus of unreached and unrelieved wretchedness greater in amount than it met with at the outset of its operations ; that it never rescues the *whole* field of human suffering from the hand of private charity, and then brings it under a better and more effective management than before ; that at each step of its progress, it only works on a part of the actual field, and meanwhile sends forth a pestilential influence on every side of it among the sound part of the population ; that on the outside as it were of all the space which it occupies, there ever lies an unreclaimed waste of poverty, which recedes and broadens, and that, too, in proportion as public charity proclaims and multiplies her doings : and, therefore, so far from acting the part of a more efficient substitute for private charity, she has, in truth, left benevolent individuals more to do than ever, and aggravated all the duties and all the difficulties which originally lay upon them.

Now, without offering to decide this controversy at present, we are led, by the publication before us, to attach ourselves to an object, on the practical importance of which all the parties in it are most cordially agreed. The object is, to reduce the heavy expenses of pauperism, and, at the same time, to relieve the miseries of the poor. We observe in the present and in many of the other English publications upon this subject, frequent appeals to the case of Scotland, and a kind of mysterious charm ascribed to that peculiar mode of treatment which still obtains in the greater number of our parishes. We hold ourselves to be discharging one of the most appropriate of our functions when we are attempting to furnish our Southern neighbours with such information as our opportunities can supply ; and we do think, that much important principle may be deduced from the present aspect of Scotland, in so far as it respects the question of Poor's Rates.

Whatever differences may obtain on the philosophy of the subject, we believe that there are two points on which there is now a very wide and general agreement. The first is, that the ills of Poverty will never be banished from the world by the mere positive administrations of Beneficence. The days have gone by when the relief of Poverty could be looked upon as nothing more than the simple process of filling up a vacancy, or of directing towards that quarter of society



where there was want, a stream of supply from that other quarter where there was fulness. This indeed was the first and most obvious expedient; and it was natural to think, that in this way a sufficiency could be obtained for all the needs and sufferings of our species — and a more equal rate of enjoyment be diffused over the neighbourhood; while the rich by the act of giving, and the poor by the act of receiving, would come nearer to each other in the degree at which they participated of the bounties and the provisions of nature. This experiment, however, has been repeated in a thousand forms; and even when conducted on the largest and most conspicuous scale, the result has been a glaring mockery of these anticipations. Liberality has put forth her abundant stores in many a town and in many a neighbourhood, and no such scene of fine or delightful promise has ever been realized. And even when, with the feeling that her present sacrifices were not yet enough, she has put forth a greater stretch of exertion than before, she has always found that her powerless aim fell short of that accomplishment to which she directed all the earnestness of her wishes, and the strenuousness of her most honest and diligent endeavours, and has at length arrived at the sure mortification of knowing, that the object of her pursuit is ever receding from her advances; and that, let her multiply her offerings as she may, there will still lie before her the unquelled aspect of a clamorous, dissatisfied, and actually suffering population.

This is a point, then, upon which we are not called to provoke the antipathies of any set of men, by linking it with the doctrines of Malthus, or any other system of economical speculation. People have found their way to it with nothing else to guide them than a kind of gross and general experience. Put the case of a wealthy citizen, leaving the fortune he has amassed in some second-rate town of the empire, to the object of alleviating the general indigence of its people, and let its interest form a clear addition to all the anterior charities of the place. There are many who, with no system and no generalisation in their heads about it, could, on the strength of something like an instinctive sagacity, pronounce on the utter futility of such a destination. They could tell us, that this additional sum, if it amounted to ten thousand a year, would just go to augment the numbers of the poor, without reducing the miseries of poverty; and that if, by way of making a still more decisive stroke at the mischief, the ten thousand were made twenty, the mischief would still rise upon us, and hold out as obstinate and inextirpable a character as ever. In short, there are hundreds of practical men who, though totally unfurnished with science or any thing like it, have got a thorough hold of the truth of the matter, who see, and see with a most discerning justness, that the right management of poverty is truly the darkest and most unresolvable of all problems; and that, in the face of all which the combined charity and wisdom of man can devise to banish them from the world, there appears to exist some mysterious necessity for the accomplishment of the saying, ‘that we shall have the poor with us always.’

And, indeed, without entering into the theory of population at all, it seems pretty evident, that should I retrench my own enjoyments, and give the produce of all this economy to the poor, I should only give to one set of human beings what I am withholding from another. The sum now expended in the relief of poverty was formerly expended in payments for the articles of my own accommodation, — in the shape of



support to those who supplied these articles — or of remuneration to those who had vested their capital or bestowed their industry upon the preparation of them. And thus it appears, that wherever a great mass of wealth is directed to the maintenance of the poor, this is done by a great withdrawment of wealth from its former channels of distribution; by a great impoverishment of those who were formerly upheld by this wealth in the exercise of their callings; and, in fact, by the creation of poor in one quarter, just as you divert money away from those who were industriously earning the price of your articles of consumption, to the relief of poverty already existing in some other quarter. And hence it may be seen, how, if all the men of wealth in the country were to reduce themselves to the mere necessities of life, they would just dismiss from their service a mighty train of dependent artificers and workmen; they would just, without forwarding by a single inch the cause of human enjoyment, exchange an industrious for a beggarly population.

Without making any further attempts at present to unravel the intricacy of this mechanism, we now hasten to another position, in the truth of which, also, there is a pretty general agreement between the disciples of philosophy and practice. It is, that no power of inquisition can protect a public charity from unfair demands upon it, and demands, too, of such weight and plausibility as must, in fact, be acceded to, and have the effect of wasting a large and ever increasing proportion of the fund on those who are not the rightful or the legitimate objects of it. We speak not merely of the arts by which every claimant can disguise his actual circumstances. We shall suppose that this point can be most rigidly ascertained, — that a precise inventory can be taken of all his means and possessions, — that every latent source of maintenance can be fully detected, and brought before the view of the guardians and distributors of charity, — and that a correct judgment can at all times be formed on the question, whether the present situation of the applicant be such as might entitle the public to leave him to himself. This is the only question which the dispensers of a legal charity ever do take up, and, what is more, it is the only question which they are able to resolve. The question of the previous habits of the applicant for relief, they do not entertain; and, if they did entertain it, they would find that its satisfactory solution was far beyond the reach of all their expedients of vigilance and inquiry. The most galling police that ever was devised or put into action, by the fiercest despotism on earth, could not accomplish this object.

There is not a labourer in the country, however well paid he may be, who might not become a pauper at the first moment of his decaying strength or of his declining wages; and that just, by such a relaxation of his previous economy as could not be detected by the most watchful guardianship of men appointed to preside over this department of the public interest. They could not go over the whole previous expenditure of his family. They could not limit or modify the multifarious details of his personal and domestic economy. They could not enter his house, and prune away all the superfluities of indulgence that go on in it. They might as well think of employing agents to sweeten the tea of every breakfast table throughout all the lanes and intricacies of a great city, as think of keeping up the tone of the people's economy, and that, too, in the face of open and widely known provisions for the relief of indigence. The truth is, that it is this provision which has

relaxed their economy; and we may now see how speedily, and, at the same time, how imperceptibly, a double provision would be followed up by a double relaxation. The dispensers of charity are in a state of utter powerlessness over that very element which it is of most essential importance to control. And let them be as multitudinous as they may, and completely provided with all the forms of strict inquiry and prying inspection, and skilfully constructed schedules, and bodies of men arranged into a curious assortment of committees and sub-committees; in short, let them get up an apparatus of defence and of distribution as ingenious as they may, they will, in every one of their objects, be counterwrought and prevailed over by a still more ingenious population.

There can be no difficulty now in perceiving, how every extension of the poor's fund is in general sure to be followed up by a more than proportional increase of actual poverty. We greatly underrate the alertness and the sharp-sightedness of the lower orders of society if we think that their attention is not all awake on the proclaimed existence of a revenue for their eventual wants, or that they do not admit this fact as an element of computation that tells, and with great practical certainty, upon all their habits of indulgence and expense. It were well, indeed, if they kept within the bounds of accuracy in these computations. But the truth is, that they greatly overrate the power of every public charity; or, in other words, the relaxation of the providential and economical habits is always sure to go much beyond the capability of every instituted fund to meet the effects of this relaxation. And hence it is, that a public charity necessarily creates more poverty than it provides for; that a feeling of pressure or of deficiency haunts every footstep of its operations; and that the evil, which it tries to overtake, swells and magnifies, and retires upon all its advances. And surely, when the good to be done thus mocks our utmost efforts at approximation, and we see the vision of distress we want to scare away rising into more tremendous dimensions, and, in the language of the devouring grave, telling us, on every addition to her spoils, that it is not yet enough, — surely there is something in all this that may well perplex and alarm us. Nor is it to be wondered at, that it should have done so much to check the stream of sympathy, or to shut its hand, or to stint the offering which flows from it.

If actual want be the only qualification required, this can be easily come at without any painful accompaniment on the part of the applicant, or even without any such glaring improvidency as shall decisively fasten upon him a criminal or a disgraceful imputation. To relax the industry by a very little, or to let down to a small and imperceptible extent the economical habits, or to regale the appetite with a few secret and scarcely unallowable delicacies, — these are the simple expedients by which, when once the mighty hold of self-dependence is loosened and done away, the daily increasing thousands of a city population may, in the shape of famished wives, or ragged children, or destitute old men, inundate the amplest charity that ever was reared, to the full extent of its capabilities and its funds. The recipients will ever multiply, without any other limitation than the revenue of the institution; and the dispensers be mortified to find, that all the vigilance they can employ, and all the inquisitorial jealousy they can exercise, on the cases and applications which come before them, will be a frail defence against the invasion of such numbers as shall devour the whole produce of the



charity, and leave a mortifying surplus of broiling discontent and unappeased clamour, and actual unrelieved poverty, behind it.

And here it may be proper to mention, as one of the worst effects of such a system, that mutual acerbity of feeling which is thereby engendered between the higher and the lower orders of society. On the one hand, there is the harassing suspicion, that with every surrender they make they are doing no good; that they are feeding a mischief they can never quell; that they are throwing oil upon a flame which no art and no management can extinguish; and that at every new concession of liberality, they are to be mortified by some new exhibition of insatiableness or of ingratitude on the part of its objects. On the other hand, there is the obstinate and determined sentiment that no gratitude is due;—there is a feeling of right to buoy up the nurselings of Pauperism under all the degradations it is conceived to bring along with it;—there is the provocation of scanty allowance to feed their discontents, and to sooth, or even to elevate, their minds by something like the movements of a generous indignancy; and in all these ways is there established a strong feeling of repulsion between the rich and the poor,—most injurious, we are sure, to the individual character of both,—and most menacing to the peace and good order of the commonwealth.

This view of the matter should help, we think, to redeem the speculations of Mr. Malthus from a certain species of sentimental abhorrence that is often expressed towards it. There are many who think that his doctrine has an air of irrefragable demonstration, but that it also has to the full as great an air of barbarity. While they admit his conclusions to be those of an argument, on which reason and truth have stamped their irresistible authority, they feel them to be painful, and revolting, and melancholy. They conceive, that upon this subject they cannot follow the dictates of their judgment without inflicting a wound upon their sensibilities; nor act their parts as men of understanding, unless they stifle every delicacy of their nature, and be prepared to weep the departure of every softer charity from the world.

This is a gross misconception. A disciple of Mr. Malthus need not be the enemy of Beneficence. All he proposes is to change the direction of it. He looks on the constitution of our nature, as affording, in the pain it annexes to the sensations of hunger and cold, an immutable guarantee against the starvation of those who can earn a subsistence; and as to those who cannot, he leaves them to the kindness and the watchfulness of private charity; believing, that every legalized provision musters up a competition against the claims of real and unquestionable distress, in the unjustifiable demands of those whom the very existence of such a provision has tempted to resign their industrious habits, and voluntarily to crowd that avenue which leads to a degrading and wide-wasting Pauperism.

If this belief be well-founded, then does every disciple of Malthus stand upon lofty vantage ground, for retorting back on sentimentalism all her own execrations. He has nothing to do but to proclaim, that his partialities are on the side of individual and unknown Benevolence; that it is there only that he meets with this virtue in all its tenderness on the one side, and in all its gratitude on the other; and that, in the ministration of a public and proclaimed charity, there is not one feature of kindness which can draw his regards to it. And when he looks at the scowling jealousy and discontent which ever accompany its operations; at the manifest hostility of feeling which rankles in the bosoms,



both of the receivers and dispensers; at the sums extorted by clamour, and given with reproach; at the scene of angry contention, on which suspicion and resentment and selfishness, and all the worst passions of our nature, make up one most odious and revolting exhibition; — when he couples this with the fact, that there are countries in Europe where there is no legalized charity at all, and where want and wretchedness are yet as little known as in ours, — how can he feel that he incurs the guilt of barbarity in befriending a system which offers to restore to Benevolence all its lovely and endearing attributes, without robbing it of one particle of its efficacy; which is for guiding the footsteps of the wealthy to those haunts where poverty is to be found in meek and modest retirement; which is for dispensing the treasures of charity through the secrecies of personal and confidential intercourse; and would have her to expatiate on that unseen theatre, where there is no eye but the eye of Omniscience to witness her doings, and no book but the book of Heaven to record them?

But we have already dwelt too long on general and introductory matters, and must proceed, without further delay, to our statement of the causes to which the comparative exemption of Scotland from the burdens and the miseries of Pauperism is mainly to be attributed. The fact is, that in most of our large towns, and in pretty large districts, too, of some country parishes, our peculiar system has been broken in upon. However much this is to be lamented on its own account, it serves to throw additional light upon our subject, by supplying us with a richer variety of cases and of illustrations. Like the act of subjecting an experiment to repeated variations, it may teach us how to distinguish what is efficient in the business from what is only circumstantial, and thus guide us the more surely to the detection of those principles which are of essential operation. At the same time, the consideration of those peculiarities which belong to the crowded population of cities will not be altogether inapplicable to that case of our overgrown metropolis, which forms the subject of the Report that is now before us; while the suggestions we propose to throw out on the practicability of restoring to Scotland all the benefits of her original parochial system, and of repelling within its antient limits that mischief which threatens to bring a most corrupting assimilation upon our people, may serve to furnish some hints for the treatment of this great moral disease throughout the bulk of that country where it has obtained so deep and violent an inveteracy.

In those Scottish parishes, then, which are still untarnished by the habit of compulsory assessments for the annual maintenance of the poor, the whole public relief which they obtain passes to them through the organ of the Kirk-session, an ecclesiastical court composed of Elders, who, in general, are men of respectable character, though not always taken from the higher, or even from the middling classes of society. The minister presides over the meetings of this body, with the title of Moderator; and he, and all such members of his court as have a practical share in the management and distribution of the charitable fund, do almost universally reside within the parish, and have at least such an acquaintance with the objects of their care as secures all those civilities and customary recognitions which take place among men who live in the same neighbourhood, and are frequently, if not daily, in the personal view and observation of each other.

The fund itself is mainly derived from weekly collections, made



every Sunday, of the voluntary offerings of those who attend divine service. In addition to this source of revenue, many of the Kirk-sessions have a small capital, either in money or in land, bequeathed to them by charitable individuals, or gradually formed out of the accumulated savings of past years. But we are safe in saying, generally, that the chief part of a Session's income arises from the free-will contribution at church of the inhabitants themselves, aided by certain fees which are exacted at burials and proclamations for marriages, and sometimes by fines for such irregularities of conduct as subject to ecclesiastical censure and discipline. From the amount of all these items there must be deducted the expense of certain salaries to clerks and other office-bearers, in order to obtain the free income of each session for charitable purposes. And the writer of this article can assert, on a pretty general induction of cases in the county of Fife, that the whole annual sum which goes to the support of the poor in its country parishes falls considerably short of forty pounds sterling, and, in some cases, is as low as twenty pounds, for each thousand of its population.

But there do occur cases of emergency which require to be met by a larger measure of relief than can be awarded to the poor at the ordinary rate of parochial administration ; — such as a year of scarcity, or some uncommon depression of manufacturing wages, which, even in our most remote and agricultural districts, has a sensible influence on the price of country labour, and more particularly on the means and the comforts of female householders. To provide for such cases, there is sometimes an encroachment made by the Kirk-session on its capital, if it has any ; or a special collection is held at the church door ; or an extraordinary subscription set on foot throughout the parish ; or, lastly, a parish meeting of heritors, or landed proprietors, who, in general, agree to raise a specified sum, and retire in the understanding that each of them will contribute to it proportionally to his interest in the parish. Even in this last form, however, the sum raised sustains the character of a free-will offering in the eye of the population. The law may make the maintenance of the poor compulsory on the owners of land ; but the experimental state of every parish in this respect is decided by such habits and opinions as are found to prevail among its inhabitants. And, in point of fact, though, by the injudicious measures of many of our landholders, there is, upon the whole, a gradual obliteration of the wholesome sentiment going on, it may be asserted of almost every parish, where a habitual assessment for the poor is not yet established, that when an extraordinary measure of relief is resorted to, beyond the regular and ascertained method of supply by the Kirk-session, the money so raised goes in the shape of a gratuitous offering from the dispensers, and is taken by the receivers as a present.

But it is not enough to expose to view the mere material mechanism of our parishes, to bid our Southern neighbours look at the pieces which compose it, or barely to wonder at the result of its operation. This mechanism must have its springs ; nor do they lie so undiscoverably deep in the constitution of our nature, that they cannot be brought out to the inspection of the curious, so as to disclose to them the mystery of its movements. Some of them, indeed, are so obvious that they will not require to be laboriously insisted on. And, among the foremost of these, who does not fail to recognize the almost total withdraw-



ment of that prospective security as to a maintenance from external sources, which must have the effect of tempting many an English labourer to such thriftlessness and improvidence as are sure to hasten him on to the condition of pauperism? In many a Scottish parish, the whole sum expended on the poor would not suffice for the complete subsistence of one family. In such a case, every family *must* look to itself: and if they who are at the head of it do not always amass a competency to meet the wants of old age, they do, in fact, look to their children.

And if it be true that interest and necessity are the powerful agents for giving a practical establishment to many of the virtues; if this be the charm, which, in the commercial world, upholds the members of it in the exercise of faith and honour and punctuality, — then, in this more unobserved world of a country parish, we may rest assured that the very same charm will bind the great bulk of its inhabitants to such practices and habits as are most obviously indispensable for the safety or the maintenance of its members. If it hold true of human nature, that every quality is valued and held in reverence in proportion to the need for it, how powerfully, in such a state of things, will this principle invest the support and the shelter of parents with all the claims of an indispensable obligation! What a monstrous deformity will it impart to the act of abandoning them! — And hence it is, that we are so often called upon to observe, under an economy like this, the honourable workings of what may be termed the epidemic virtue of every neighbourhood where such an economy is instituted, — the aged reposing with comfort and respect in the houses of their children, — sitting at their allotted place of distinction by the evening fire, — returning this filial piety by such little acts of helpfulness as their feebleness can still administer; — in a word, instead of being surrounded by the dreariness and the coldness and the alienations of a Poor's house, spending the winter of their days amongst homebred feelings and homebred enjoyments, — and at length carried to their graves by the arms of descendants who, out of their own hard and honest earnings, shielded the parents who gave them birth from a degradation they would have blushed to endure; and, keeping them off from the parish to the very last, so bore up the termination of their career, as to sustain the dignity of its character throughout, and nobly to close its description, as a career of unbroken and unsullied independence.

These are the grand moral struggles which resolve this mystery, and by which, while the temptation to give them up is only kept at a distance from us, there would be a secure and everlasting barrier against the progress of pauperism in our Scottish parishes. But in many of these parishes, particularly to the south of the Forth and Clyde, this temptation has been obtruded upon the people; and the result of it is pregnant with instruction. It appears, from written documents before us, that there are parishes in Roxburghshire where, within less than half a century, and since the principle of legal assessments has come to be habitually acted upon, the expense of the poor has increased tenfold; — and we have one particularly in our eye, where the whole money expended comes considerably above the rate of two hundred pounds a year for each thousand of its population. There is another parish, in the neighbourhood of Edinburgh, where, upon the recollection of a verbal statement made some time ago to the writer of this article, there has been an increase of the annual charge from



fifty to four hundred pounds in the space of twenty years, — and that, too, contemporaneous with the introduction of the method of assessments.

We now proceed to other principles, more latent perhaps, but certainly not less powerful in their operation. When once this regular system of levying the supplies of pauperism is introduced, it robs the whole sum which is given of the expression that it once had of a free-will offering. A little reflection will serve to convince the reader how much this one circumstance tends to undermine that delicate reluctance on the part of the receiver, which, in truth, forms one great moral barrier against the extension of pauperism. A man may feel ashamed to accept as a favour that which he has no objection whatever to pocket as his due; and he may even feel elevated on obtaining, as the fruit of a legal victory, what would have hurt and degraded him in the shape of a donation. Under the new system of things, there is something like the buoyancy of a generous sentiment to displace that conscious humiliation which, under the old system, is strongly associated with the act of becoming a dependant on the charity of the public. That salutary recoil, which, in the unadulterated parishes of the North, is operating with so much vigour at this very hour, is completely overborne by that other set of inward movements which swell out, and which even elevate the heart, when the possessor of it is employed in what he thinks the work of a spirited and a rightful vindication. This was strikingly exemplified a few months ago in Glasgow and its neighbourhood, where the contest for a legal maintenance was maintained with all the zeal and dignity of that more generous contest which has for its object the establishment of the political rights and liberties of the commonwealth, and where one of the most munificent subscriptions in the empire for the relief of the industrious operatives was eyed by the principal champions in this controversy with evident feelings of dissatisfaction and disdain. This may serve to prove how surely and how tremendously this mischief carries in it the principles of its own acceleration, — how those very feelings of self respect, which, under the system of voluntary relief, act as such powerful guardians to defend the access of pauperism, this system of legal and compulsory relief enlists to a certain degree upon its own side, and turns them into harbingers for speeding and preparing the way to its own practical extension, — how it inverts before the eyes of the people all the images of glory, and leads them to vaunt in a condition of society from which every man, who has the true soul and sense of dignity within him, will do his uttermost to rescue himself, and all who belong to him.

And here we should not be afraid to make our appeal to the best sensibilities of the people themselves, and are confident of an echoing testimony from many a bosom. Which, we could safely ask, at least in our own country, which is nobler — to struggle unseen with the difficulties of your situation, or to lay open your house and your circumstances to the scowl of an official inquisitor? Or if these difficulties are like to overmatch you — whether it would not come home to your feelings in the form of a kindlier application, that the helping hand of a secret and invisible friend was stretched forth to relieve you, than that your degradation should be obtruded upon the face of day, or be indelibly engraven in the registers of a public institution? Which of the two would be more cheering to your family — the visit of an



affectionate neighbour, who knows your misfortunes and your worth, and is ready to shower upon you the tenderness of his silent ministrations, — or that you should swell the number of applicants who troop around Public Benevolence as she sits on her elevated chair, and deals out her weekly allowances with all the point and rigour of an attorney? These, however, are the mortifications which every instituted provision for the poor is sure to bring along with it, — and that, too, without any abatement of the ills of poverty, but with a sore and increasing aggravation of them. How infinitely desirable would it then be, if these safe and simple practices could be restored to their full operation, by the universal adoption of which, all subscriptions would henceforward be uncalled for, and all the hateful degradation of legalized charity be exclusively and for ever done away!

But we must go back again to the case of a country parish, and see in what possible way its wholesome economy can be transferred to the crowded population of a great city.

We will venture to say, that one of the most powerful checks to pauperism, in a small parish, is the personal acquaintance which the members of every distinct vicinity in that parish have with each other. This circumstance operates in a variety of ways, and all of them on the side of augmenting and fortifying the repugnancy of our peasantry against the condition of pauperism. The exposure of one's degradation in the eyes of his fellow-men is at all times painful; but the pain is inconceivably heightened when this takes place in the sight of those with whom for years we have been in terms of familiar converse, among whom we have maintained, down to the present period of our history, the standing of an equal estimation, with whom we are every day in the habit of exchanging the notices and the civilities of good neighbourhood, and before whom, therefore, it may be quite insufferable to make a visible descent amongst the wretched dependants upon the charity of the parish. We know not a single antipathy of more powerful and practical operation than this; and to prove how much it is sustained by a long established acquaintance with the surrounding observers, it is only necessary to mention, that nothing is more common amongst the families of our poor than the utter extinction of this delicacy so soon as they are removed from those external circumstances by which it is excited. When a family moves from one parish to another, they get beyond the sphere of that moral control which we have now been insisting on. A degrading exhibition in the eye of those new neighbours among whom they have come is far less insupportable than the same exhibition in the eye of those old neighbours whom they have left, and with whom they have left all those restraints and delicacies which grew stronger every year, by all the habits and all the recollections of a prolonged association. There is not a more frequent complaint among the administrators of parochial charity, than the trouble and the encroachments to which they are exposed from the rapacity of new-comers. There is not a more frequent topic of exultation, than the superior delicacy and tone of character which obtain among the original inhabitants. There is not a more frequent reflection, than that if they had only these to deal with, they could, even after the mischievous principle of assessment has been introduced, and against the force of this opposing element, prevail in their honourable combat for the independency of their native population.

There is one other delicacy, to the operation of which the consti-



tution of a small parish is peculiarly favourable, — that delicacy which is set agoing by the acquaintance that obtains between the labouring classes and the administrators of the parochial charity. There is nothing that serves more to dignify the character of any person than the daily and habitual notice that is taken of him by his superiors. The simple exchange of those salutations which are given and received on the wayside has a more substantial effect on the general tone of a neighbourhood, than a gross or superficial observer of human nature is able to conceive. And the effect comes to be far more conspicuous when these slighter expressions of acknowledgment are heightened into closer and kindlier applications; when, by a series of descending interchanges, the golden line of life is kept continuous and unbroken, from the owner of the lordliest domain, down to the humblest of the cottagers; when, in the operations of agricultural service, a small and unshifting population are ever presenting the same set of faces, and bringing the men of influence and property into frequent contact with the same individuals; when out of his mansion-house, there is always emanating towards the contiguous hamlet a stream of obliging and beneficent attention upon its families. — Why, under such a system of things, there is already established in the minds of the people a very strong principle of recoil from such an exhibition as will degrade them in the sight of those superiors, with whom they have so often reciprocated on the honourable footing of independence and mutual respect: and this principle is felt with ten-fold intensity should these superiors be both the administrators and the supporters of the charity that is offered.

There is still another circumstance, which well deserves to be adverted to. Under the peculiarly Scottish system, the great mass of the people are contributors to the parish charity. It is felt and acted upon as a creditable thing, on the part of men in the labouring classes, to give their mite to the weekly collection. It is needless to expatiate on the effect of this, in widening the distance of all their habits and of all their inclinations from a state of pauperism. A man who has been, throughout the great bulk of his life, a giver, stands separated, in virtue of that very practice, by a more impassable interval, from the humble condition of a receiver. The higher the station is which he now occupies, the greater will be his reluctance to descend from it. And when, in addition to this, we consider that these humble contributors are scattered throughout the great mass of the population; that, removed by a narrow space from pauperism, they are in daily and familiar contact with those who are standing upon the verge of it, and struggling against the necessity of an entrance; when the fear and the disgrace of being burdensome are aggravated by the consideration, that the burden, instead of being confined to the great and the lofty, is extended, through the medium of pulpit-addresses and announcements of special collection, to the very men who live beside them, and with whom they have associated for years on terms of perfect equality, — we may, without any great reach of penetration, comprehend how, under such a constitution of matters, there will, among a tolerably enlightened people, be an effectual barrier in the working of their own hearts, and in the spontaneous movement of their own native and untaught delicacies, against the extension of a degrading pauperism.

The introduction of legal assessments, however, has paralyzed the whole of this machinery. There has been a very natural decline in the

amount of the weekly collections in all those parishes where this method has been instituted. The money given to the poor has lost its original character of a free-will offering, and is now given and received in the shape of an extorted right from the wealthier to the humbler classes of the community. It is true, that, in country parishes, some of the circumstances now specified do still continue to operate in a certain degree, and to restrain the celerity of those advances by which the border counties of Scotland are fast hastening to a state of assimilation with the sister kingdom. But, with the exception of a few cases, which may be afterwards adverted to, there has, in truth, been a very rapid acceleration of a mischief which is entailing a heavy burden upon the country, and deteriorating the character of its people, without adding one particle to their enjoyments.

Now we cannot fail to perceive how, in cities, where all the restraints that have now been enumerated are of so much feebler operation, this acceleration must be still more alarming. The control of the immediate neighbourhood over a man's sense of dignity is scarcely felt at all in those places where families may live together for years in a state of juxta position, and never exchange one note of acquaintanceship with each other. In the density of such a compact and crowded mass, individuals and families are scarcely within sight of each other; and the power which lies in that nearer and more intimate observation which is exercised by those few who are familiar with him who is just standing on the brink of pauperism is, in a great measure, diluted by the generalities of that more distant intercourse which every inhabitant of a city may carry on with people who take no concern in his affairs, and exercise no inspection over them.

And again, as to the personal knowledge that subsists between the recipients and the administrators of charity, — as to that tie of acquaintanceship which carries so many hidden but effective comforts along with it, — as to those frequent recognitions of civility which go in a manner to equalize the two parties, and of course to stir up in one of them a sense of shame that will both restrain the approaches of those who have not yet entered into pauperism, and temper the applications of those who have already got within its limits, — as to all this, we say, there is one important peculiarity of management in most of our large towns in Scotland, which has nearly the effect of annihilating this salutary counter-action altogether. The management we allude to is that in virtue of which all the distinct parochial supplies are combined into one fund, and the whole business of the city poor brought under one ultimate superintendence. This widens still more the distance between the receivers and the dispensers; and we know of nothing which tends more effectually to extinguish all the powerful, though latent, delicacies to which we have just been adverting, — nothing that serves so surely to exclude the operation of honest and ingenuous feelings from this administration, — nothing that so substitutes the hardness and repulsiveness of mere officiality in this administration, and turns the whole business of it into a warfare of opposing interests between men who know as little, and care as little, for each other, as if they had met upon an arena of combat from different quarters of the globe, — nothing, in short, that so sweeps away every moral barrier against the extension of this sore and hitherto unmanageable evil; that so engenders hostility and prejudice between the givers and the receivers; that so fortifies the one in the determination to give as little, and the other to obtain as much, as they



possibly can; that so transforms the whole interchange into one of the most unkindly, litigious, and disdainful character. And after it has come to this, after such an attitude has been once taken, after the gauntlet of defiance has thus been thrown down, and the field of public charity has been turned into a scene of angry contention between the givers and the receivers, let the former be as firm and as vigilant and as sagacious as they may, they will never be able to stem the torrent of mischief that has set in upon their city. Under all its fluctuations of prosperity and adversity, they will be astonished at the steady progress of a disease which gathers and makes head against them with every new grant that is awarded to the poor, and every new contribution that is laid upon the wealthy: and, so long as this unwieldy system of a general and extended management is persevered in, a system which encumbers its agents with a list of distant and unknown cases, it will be the infallible experience of each successive year, that the pauperism of a city population is of all concerns the most helpless and the most inextricable.

If these premises be admitted, the obvious conclusion is, that this general management should resolve itself into a number of independent and elementary portions. The mass of every city population should be broken up into sections. There should be an instantaneous recurrence to the system of separate parochial managements; and it would go in part to restore the operation of the extinguished delicacies, were the agents of each separate management residents in the respective parishes, and did each parish defray the whole expense of its own poor.

There is one obvious benefit that would result from this arrangement. It would take off from that seducing air of magnificence which marks the charitable operations of a city, when the distress or difficulty of the times calls it out to some great undertaking. The separate and independent movements of each small parish in behalf of its own poor would be altogether free from this treacherous ostentation; or, in other words, there would neither be so general an importation of poor adventurers from the country, nor would there be such a ruinous confidence in the power of our public and overgrown charities on the part of our misled and miscalculating population.

We are well aware, that it must occur as a difficulty in the way of this arrangement, that the distribution of wealth is very unequal over the face of every city; that it is greatly accumulated beyond the average in some districts, and that it is as greatly below it in others; and that, if such a resolution of the management were to take place, as that which is now recommended, the support of the opulent citizens, who cluster together in genteel and fashionable streets, would be utterly withdrawn from those portions of the town which are occupied by its artisans and its labourers.

But were we to give place to this objection, we should be surrendering the very principle on which we have hinged the whole of our argument. We assert, that the positive administrations of relief, which are now discharged from the richer to the more destitute portions of a populous city, do nothing but aggravate and inflame the mischief it is their direct object to do away; that, if an expedient could be devised for intercepting this stream of communication from the upper to the lower ranks of society, it would contribute, not merely to the dignity of the latter, but to the abundance of their physical enjoyments; that it is quite in vain to talk to us, in the way either of argument or objection,



of a more equal apportionment of the burden of charity over a town, when it is our firm opinion that the burden might be lifted off altogether, and that every such apportionment, as the one which is contended for, is only thickening and augmenting this sore evil : and it may be conceived, how lightly we stand affected by any such consideration, when we state it as our most firm and intimate belief, that there is not a single section of any city in Scotland, of suitable dimensions for a distinct parish, which contains not within itself all the capabilities of comfort and of maintenance for all its families ; that were this section, and let it be the very poorest and most degraded, both in condition and in character, which can be fixed upon, morally cultivated as it might be, and that, even in the present state of our people, without any great difficulty, it would be found, though not a single farthing of charity ever crossed its limit from the exterior opulence that was around it, that there did exist in its own bosom all the elements of independence ; and that, by a process which is quite accessible, and which depends, for its operation, upon direct and simple and easily understood principles, the whole system of a country parish, in its originally Scottish form, might still be established amongst our city population, and be made to send a healthful circulation through the interior of its most crowded and depraved assemblages.

We must again, for this purpose, resort to the case of a country parish, and have to observe, that the mere want of legal assessment is not enough to explain the comparative state of comfort in which we behold the great mass of our Scottish peasantry. We understand that, in Ireland, there is no general legal provision for the poor ; but how affecting are the many descriptions that are given to us of the mendicity and wretchedness of its people ! There must therefore be the operation of some other latent element in the case of Scotland : and, feeling now that we must get rapidly forward, we once for all assert, that this striking difference between the two countries is altogether due to that superior tone of character which never fails to accompany a system of diffused education, and to the influence of religious principle, kept constantly alive by a set of men, the style and the habit of whose ministrations bring them into close and frequent contact with all ranks of the people.

It would be a curious, and certainly a most important, inquiry, though we have not leisure to prosecute it at length, to ascertain the precise influence of Christianity upon a people in as far as it affects their disposition to pauperism. It is clear, that the direct, or what may be called the preceptive influence of this religion, is all on the side of a most strenuous habit and principle of independence, — that the man who has submitted his whole heart to its lessons will recoil from the act of receiving, because he knows that ‘ it is more blessed to give than to receive,’ — that he will catch the spirit of the Apostle, who ‘ laboured with his own hands, rather than be burdensome’ — that he will proceed upon the dictate of the Apostle, who declared, that, ‘ if a man would not work, neither should he eat :’ — and that thus, even a literal adherence to the formal and direct prescriptions of the Bible will, with every genuine disciple of that book, ensure a habit of most determined resistance, not merely to the degradation, but to what he must account the positive criminality of this condition, if he can at all save himself from it by the exertions of his own industry, and the frugality of his own management. It is obvious, however, that such a close and unexcepted



application of Scripture to all the points and varieties of human conduct is but rarely exemplified. There do occur most affecting and honourable examples of it, even among the very humblest parishioners whom a clergyman has to do with. But we will not say, that the effect of Christianity in restraining pauperism will, upon this principle *alone*, extend itself beyond a small proportion of the individuals in a country.

But a vast deal more in the way of influence is to be attributed to the indirect operation of Christianity on the general tone of feeling and of character. A man in cultivated life would recoil from an act of falsehood; not because he has been rebuked out of this vice by the lessons of an authoritative code, but because his whole habit, formed as it insensibly is by the circumstances which surround him, carries along with it an utter contempt and disinclination for so odious a transgression upon all right and honourable principle. And thus it is with Christianity in reference to pauperism. Out of its code there may be gathered materials for rearing a direct barrier against the progress of this malady among the people. But the main agency of this system of instruction lies in the general refinement and elevation which it imparts to the character of those who are the subjects of it. An educated peasant, familiarized to his Bible, and observing a close and interested attendance on the weekly instructions of his minister, and soothed by the tenderness of his counsel and ministrations, and raised to self esteem by the civility of his occasional visits, and the object of courteous attentions from the person he loves and holds in reverence, — why there is positively upon such a man an exaltation of soul and of sentiment which has gathered itself insensibly out of those daily and ever recurring influences by which he is surrounded; and there is formed upon him a fineness of moral complexion which would be revolted by the humiliations of pauperism; and he would shrink from this condition of life, not because he has been directly and categorically so taught, but because the whole of his moral education has furnished him with a set of delicate and dignified antipathies, which lead him to nauseate the descent, and feel it to be ignoble. And when we think how widely and how generally this charm may spread itself, even where there is not that universality given to the preceptive influence of Scripture which leads to a close and a scrupulous application of all its lessons, we may see how, by the institution of an acceptable and an efficient Christian ministry in the land, there is raised a powerful safeguard against that degradation of character among the people, which sustains the whole fabric of pauperism, and forms the real secret on which we can explain the might and the mystery of all its accelerations.

This second cause will, in our apprehension, tell on a greater number of people than the former. But what perhaps is of more consequence than both of these put together, is the reflective power of dignified and honourable example emanating from the few who receive an impression from Christianity, on the many who do not, and who, we fear, constitute the great mass of our population. It is a fine remark of a living writer, that Christianity may elevate the general standard of morals among a people, even though a very small proportion of them shall, in the whole sense and significance of the term, become Christians. The secondary influence of that admiration which is sure to be excited by the display of Christian accomplishments will lead to the imitation of them under the influence of other and subordinate



principles than those which are suggested by Christianity itself. And this holds most conspicuously true in the present question. Let but one-tenth of the labouring population be distinguished, through the operation of the two former causes, by their honourable exemption from the degradation of pauperism,—and let them only come into daily exhibition and comparison with the people of the neighbourhood around them, — and their example will spread: an homage will be paid to this superiority of condition and of character, even by those who have not been at all touched either by the direct or the indirect influence of Christianity: the standard of feeling and of conception will be elevated throughout the great mass of the population: and while this third cause operates, we believe, more extensively than the two former in conjunction, yet, as it is subordinate to them, we cannot but essentially attach it to the exertions of a Christian clergy and a pure system of Christian instruction.

This supplies us with another important contrast between a city and a country population. The latter, as we have attempted to explain, are surrounded by a set of circumstances more favourable for calling forth all those wholesome and opposing delicacies which go to counteract the progress of pauperism. But circumstances will not of themselves produce this effect. They must have a character on which to operate; and this most important element is far more readily supplied in the country, inasmuch as the people there are greatly more under the influence of moral and religious tuition. The truth is, that in cities, furnished as they are at present with an apparatus of Christian instruction so scanty that the minister and his people stand at a most impracticable distance from each other, it is positively not in his power to expatiate amongst them, with any degree of effect, in the way of family ministrations. That church in which he holds forth his weekly exhibition will not accommodate beyond a very small proportion of his parishioners; and, as if to dilute the beneficial influence still more, and to scatter it away into imperceptible fragments, it is the practice of our largest towns to open up a competition for seats to the whole population, without any preference given whatever to the parish over which the minister has the charge. This not only overburdens him with a distinct and additional concern, but it loosens the connexion between his personal influence and that geographical district over which he has the nominal superintendence. And thus it is, that the great mass of our city families are as effectually separated from all intercourse with their clergyman as if they lived in a state of heathenism. That intercourse, which carries so much of the soothing of tenderness along with it, — upon which the minister of a country parish may go forth with all his affections flying before him, — where, at every step of this interesting progress, he is accompanied by a gladdening and refreshing influence with which he enters into every cottage, and cheers and elevates the very humblest of its inhabitants, — an influence which may be so oft repeated as to make the clergyman the personal acquaintance of each of his parishioners,—an influence which every sickness, and every death, brings home with a new accession of principle and of power to each groupe and each vicinity in his district, — an influence under the fostering efficacy of which the character of a neighbourhood is sustained, and the whole virulence of that disease which we are now combating is far more surely counterwrought than by all that human skilfulness can devise, apart from the great moral element



we want to put into operation:—Why, this influence is as good as banished from the city multitude altogether; and let him who wields it ply his unwearied task, and walk his daily rounds, to the uttermost limit of his capabilities, he will not be able to establish either an affection or a confidence, or any one of the elements of moral ascendancy, over the mighty host that has been committed to him.

The following seems to us the most practicable plan for setting up a complete moral apparatus, in the larger towns of Scotland. The heavy expense of such a measure is at all times alleged as the great objection against it. Had this expense been gradually incurred with the progress of the population, so as to keep towns under as powerful a control of parochial influence and jurisdiction as still exists in country districts, then nothing more would have been necessary to ward off the mischief that has now accumulated upon them, than a simple rejection of every method of relieving the poor which pointed at legal assessments. But the poor have been suffered to increase, so as to outstrip the ecclesiastical provision that had been made for them; and the injury that they have thus sustained has been repaid by them with an ample measure of vengeance. For the expense that has been saved upon them in one way, they have wrung from their superiors in another way; and we now behold, as the suitable result of all this wretched economy, that the sum which might have supported a system that would have alimanted the virtues of the poor, and established in their own hearts an invincible barrier against the evil which now threatens to overwhelm us, is in fact all drawn out to the support of another system, which alimants the vices of the poor, — which has thrown down the barrier of every moral restraint against the inroads of pauperism, — which contains within itself the principles of its own sure and interminable progress, and bids defiance to all that human sagacity can devise, and human jealousy muster up, in resistance to its baleful encroachments.

Now, we conceive, that such is the remainder of feeling and of character even amongst the population of our Scottish towns, as to render the following substitution in the expenditure of this money as practicable a measure as we are sure it would be most wholesome and efficacious.

Let the sum raised by legal assessments be separated from that which is raised by voluntary collections at the church door. Let the former go exclusively to the support of all the already existing cases of pauperism, and let the latter be employed to meet the new cases. The instantaneous effect of this measure, when explained to an enlightened public, and met by their cordial approbation, would be to give an impulse to the weekly collections, and to do away the ruinous maxim, that it is quite in vain to come forward with any such voluntary contribution, when, in fact, the poor are otherwise provided for. We have no doubt that, under such an impulse, the produce of our collections would abundantly provide for the new cases of several years. And in the meantime, old cases would die out, and leave a surplus of unexpended revenue, should the sum now raised by legal assessments be kept up to its present amount.

But how then shall this unexpended revenue be disposed of? Let it not revert to the citizens who have contributed it. Let it not lead, in the mean time, to any reduction of rates. But let the destination now be impressed upon it which it ought to have gotten from the first.



Withdrawn as it has been from a pernicious channel, let it now be made to flow into the wholesome channel of maintaining an extended system of moral and religious instruction. In other words, with the revenue which has been left free, let parishes be multiplied; let provision be made for the cultivation of them by schools and churches; let efficient men be gotten to fill them, and we have not the least doubt of such a system being met by the willing attendance of a now wandering and fast deteriorating population; let more elderships be formed, and give them the advantage of narrower fields of superintendence; let a preference be given for seats in each church to the inhabitants of the parish to which it belongs, and in this way a closer acquaintanceship be established between the contiguous members of our population; let the lay office-bearers be also resident within the bounds of each parish, and in this way a closer acquaintanceship be formed between the administrators and the recipients of charity;—above all, let the clergyman, with his manageable extent of field, be felt in the full weight of his personal and professional influence throughout the families which are assigned to him; and out of the ruins of the present system, we should see another system emerge, under which pauperism would be stifled in the infancy of its elements; and a reaching application be brought into effectual contact with the very root and principle of the disease; and another generation should not elapse, ere, by the vigorous effect of Christian education on the young, we should have to do with a race of men who would spurn all its worthlessness and all its degradation away from them.

There is nothing violent or desultory, it will be observed, in the process that is now recommended. Nothing that would create an unprovided gap, or alarm practical men with the feeling of some romantic and inapplicable project. The collections at the present churches would meet the new cases for several years. New churches would gradually be formed out of the legal revenue that is left unappropriated. Before the new cases multiplied to such an extent as to absorb the whole of our present collection, additional collections would be held; and, with these, more new cases would be met, and that too by money which retained the peculiarly Scottish character of a free-will offering. But it is not so much on account of these positive supplies, that we feel a confidence in the efficiency of our project. The money raised by these additional collections would, it is true, not replace the money withdrawn from the poor by this change of destination in the produce of the legal assessment. But, to balance this, and to do it in a way which every lover of humanity must rejoice in, there would be fewer poor; the applicants would diminish every year; the seductive imagination of a legal right to a maintenance would be gradually obliterated from the hearts of the people; and the multiplication of parishes would bring the rich and the poor of each into kindlier intercourse with each other; and the interchange of private benevolence would go on more frequently, in proportion as contiguous families felt themselves more nearly connected by the tie of a congregational relationship; and there would be a sure resurrection of all those delicacies which are now well nigh extinguished; and last, but greatest, the character of the people would be raised by the direct and indirect operation of Christianity amongst them; and, with the abolition of the mischief that we are now combating, there would be made to circulate throughout these recesses of human depravity, at which the heart sickens almost



to despair, the goodly elements of peace and righteousness and loyalty.

Let Parliament legalize such an application of the money that is now raised for the maintenance of the poor, and it will do with this very destructive element what Sir Humphry Davy has done with the inflammable air of coal mines. He has turned this enemy into a friend, and made that which before scattered destruction among the workmen, minister to their accommodation. That money which now ministers to the worst passions of our nature might be thus turned to the object of disseminating its best principles amongst our population; and, with this change in its direction, instead of viewing in a mass of human beings, a brooding mass of mischievous fermentation, we should look upon each distinct section of our people as a distinct addition to the amount of our national worth and our national security.

Such a plan as this would fasten the eyes of the country upon a great moral experiment; and sure we are, that agents may be found in abundance for conducting it in triumph to its wished-for termination. We have not before us the actual expenditure of all our larger towns, or of the legal revenue that is raised for the maintenance of their poor. But we know that, in some of them, the mischief has attained such a magnitude, as, if converted in the way we propose, would rear an apparatus of instruction, large enough and ramified enough to reach to every street and every family of a crowded population. In Glasgow, for example, not less than thirty parishes might be formed out of the overthrow of its present system. And though it may be thought, on the first blush of such a proposal, that no pecuniary benefit is gained by the exchange should the new parochial arrangement be so extended as to absorb all the expenses of the now existing pauperism, — let it never be forgotten, that under the one arrangement we have all the fostering elements of discontent and jealousy and corruption, with the certainty of indefinite additions to the burden of maintaining it, — while, under the latter, we shall enjoy an everlasting security against any such addition, and purchase a cheap exemption from the turbulence of human depravity, and animate the body politic with such a new and a living pulse as shall sustain the vigour and the prosperity of all its movements, and be refreshed by the symptoms of moral healthfulness, gathering every year upon the aspect of a regenerated people.

Should there be any who look on this speculation as visionary and impracticable, let them remember, that in giving up as hopeless the abolition of pauperism by some such process as we have now stated, they at the same time give up as hopeless the character and the best expectations of our species. Let them attempt any other way of abolishing Pauperism, — let them try to attain this object without reforming the principles and dispositions of the poor themselves, — and they will soon find that they have been puzzling themselves with a problem, without taking along with them the most essential of all the data which must enter into the solution of it. But, at all events, should any such experiment as the one now proposed, which has for its object the moral amelioration of mankind, fail, then must we prepare our minds for a conclusion far more tremendous than the continuance of Pauperism, with all its corruptions and miseries. This evil, deplorable as it is, will hardly deserve any sensible regret when put by the side of the great radical disease from which it has emanated; and when we look at it in this light of comparative insignificance, we confess

that we are scarcely in possession of any spare feelings that can lead us to dwell on the mischiefs of Pauperism with sorrowful contemplation, should it be found that it owes all its inveteracy to a great moral impotency on the part of mankind, from which no expedient within the whole compass of natural or revealed knowledge is able to deliver them.\*

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## THE POOR LAWS.

THE TENDENCY OF THE ENGLISH POOR LAWS CONSIDERED, AND THE CIRCUMSTANCES WHICH HAVE OPERATED TO COUNTERACT THEIR NATURAL EVIL EFFECTS.†

WE shall have very little to do with theory in this Article. The fundamental principle of the Poor Laws has been so often discussed, that it is now unnecessary to say a word on the subject. No one loves industry and frugality for their own sakes. They are practised, by the best of us, only as means to an end; that is, as means to obtain the necessities and conveniences of life when in health, and to secure a resource in sickness and old age. Now, if such be the fact, is it not obvious, that if the state proclaim that all who are in indigent circumstances, or unable to provide for themselves, shall be provided for by the public, the most powerful motives to the practice of industry and frugality must be wholly destroyed, or at all events very much weakened? But this is what the Poor Laws proclaim. They say, that in England, no man, however idle or unprincipled, shall ever suffer want: and it is almost universally admitted, that in their practical operation they tend to render the poor idle and improvident; that they teach them to depend on parish assistance, instead of trusting to their own exertions; and tempt them to form the most inconsiderate connexions, by assuring them that, if the wages of labour should at any time be found insufficient for their support and that of their families, the deficiency will be made up by the parish.

It seems impossible to doubt the correctness of these conclusions; and yet it is no easy matter to reconcile them to what has actually taken place. It was formerly, indeed, contended by Mr. Howlett, and more recently by Mr. Barton and others, that this effect of the Poor Laws, however inevitable it may at first sight appear, has not been

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\* I have not space for another article from the same pen in Vol. xxix. p. 261. of the Edinburgh Review. Both were written by Dr. Chalmers, and have been acknowledged by him. The Essay I have selected on the tendency of the English Poor Laws, and the circumstances which have operated to counteract their pernicious effects, has been ascribed to Mr. McCulloch. Those who have read his strictures on a compulsory provision for the poor, in his recent work on Political Economy, will have no difficulty in perceiving the resemblance both in the style and the opinions. Besides, it is well known, that he has lately changed his sentiments on the question of the Poor Laws, and is now an advocate for giving to the able-bodied poor a legal title to relief if they are willing to work, and cannot find employment. For other articles on the Poor Laws, see Vol. xi. p. 100. Vol. xxii. p. 124. Vol. xxxiii. p. 91. Vol. xli. p. 228.

† Inquiries with respect to the Progress and State of Pauperism in England since the reign of Queen Elizabeth.—Vol. xlvii. p. 303. May, 1828.



practically produced. The statutory provision for all who cannot support themselves has now existed for upwards of two hundred and twenty years; and we are bound, therefore, to avail ourselves of this experience, and to decide with respect to its effects, not upon theoretical grounds, or conclusions drawn from *imagining* what the conduct of the labouring class must be when they have a recognised claim to public support in all seasons of difficulty, but by looking to what that conduct really has been during this long period of probation. It is affirmed, and truly, that there was no considerable increase of population in England from the period when the Poor Laws were first established, up to the middle of last century; and it is alleged, that its recent increase has been wholly owing to the prodigious extension of manufactures and commerce, and has not exceeded its increase in Scotland, where the system of compulsory provision has hitherto made but very little progress. It is farther affirmed, that it is false to say that the labouring population of England have, at any time, discovered a want of forethought and consideration; that they were formerly eminently distinguished for these virtues; and that, notwithstanding the unfavourable change made in their condition by the rise of prices and the revulsions of industry since the commencement of the late war, they will still bear an advantageous comparison in these respects with the people of any other country: and, in proof of this, we are referred to the returns obtained under authority of the House of Commons, which show that in 1815 there were no fewer than 925,439 individuals in England and Wales, being about *one eleventh* of the then existing population, members of Friendly Societies, formed for the express purpose of affording protection to the members during sickness and old age, and enabling them to subsist without resorting to the parish funds. It is alleged, that no such unquestionable proof of the prevalence of a spirit of providence and independence can be exhibited in any other European country. If the poor have, in some districts become degraded, it is affirmed that this degradation has not been owing to the Poor Laws, but to extrinsic and adventitious causes; and, in particular, to the excessive influx of paupers from Ireland, a country where there are no Poor Laws; and the condition of the population of which affords, it is said, a conclusive proof of the fallacy of all the complaints that have been made as to the injurious operation of these laws.

Such, in a few words, is the substance of the statements that are occasionally put forth by the apologists of the Poor Laws. And, however inexplicable they may appear, it is impossible to deny that they are well-founded in fact. It admits of demonstration, that from the period (1601) when the act of the 43d of Elizabeth, the foundation of the existing code of Poor Laws, was promulgated, to the commencement of the late war, there had been scarcely any increase of pauperism; and that few or none of those pernicious consequences had actually resulted from their operation which we are naturally led, looking only to the principles they involve, to suppose they must produce. This apparent anomaly may, however, be satisfactorily explained. That the establishment of a compulsory provision for the support of the poor would, *unless it were accompanied by some very powerful counteracting circumstances*, have the effects commonly ascribed to it, is most true. But a very little consideration will show that the establishment of such a compulsory provision as was instituted in England by the act of Elizabeth

must soon have produced these counteracting circumstances. It laid the burden of providing for the poor on the landlords and tenants of the country : but it left them to administer that relief in the way they thought best ; and it powerfully stimulated them to take measures to prevent the growth of a pauper population. If, therefore, the establishment of a compulsory system for the support of all sorts of poor has not had, as we are ready to concede it has not, all the effects that have been ascribed to it, it is not to be concluded that a false estimate has been formed of its principle and practical tendencies ; though it is, at the same time, certain, that too little attention has been paid to the circumstances by which its influence has been counteracted.\*

The question with respect to the establishment of a poor's rate is not to be decided by looking only to its probable influence on the lower classes ; those who *pay* the rates are affected by them as well as those who *receive* them. If the object of the one party be, speaking generally, to increase them to the highest limit, that of the other is to keep them as low as possible. Under certain circumstances, the former of these influences may prevail ; but under other circumstances, the latter may be the more powerful of the two. And, at all events, it is certain that no sound conclusion can be drawn with respect to the *practical* operation of the system, without looking carefully to the circumstances under which both the payers and the receivers of the rates are placed relatively to each other, and at the conduct which they respectively follow.

Assuming, therefore, that the tendency, if not otherwise counteracted, of the institution of a compulsory provision for the poor, is to increase their numbers, their improvidence, and their profligacy, we shall first shortly state, and shall subsequently investigate at greater length, the circumstances which appear to us to have counteracted this tendency of the Poor Laws, and which have led to the apparent difference, that at present exists, between the theoretical conclusions as to their operation, and the actual results of that operation.

In the *first* place, then, the *mode* in which relief has been administered to the applicants has powerfully contributed to counteract, and has indeed in some measure subverted, the system. In point of fact, the act of the 43d of Elizabeth has not been *bona fide* carried into execution. The act says, that employment and subsistence shall be found for all who are unable to find them for themselves. But those who have had the interpretation of the act were long in the habit of denying all relief, except to those who resorted to public workhouses ; and there are very many needy persons who would be eager to claim assistance from the public if it could be obtained without any extraordinary sacrifice, who would yet reject it when coupled with the condition of submitting to imprisonment in a workhouse, and subjecting themselves to the vexatious tyranny of overseers.—And, in the *second* place, the desire to protect their estates from a burden to which there was no definite limit, by keeping the rates as low as possible, stimulated the landlords to take very strong measures to prevent the building of cottages and an increase in the numbers of the poor. The combined influence of these circumstances was for a long time sufficient to balance, and even more than

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\* Public attention was first directed to this view of the subject by the learned and able editor of the *Morning Chronicle*.



balance, the effect of the compulsory provision ; and it is only in the southern counties of England, and there only since 1795, that that provision has been enabled to exert its full effect.

I. Dr. Davenant, whose accuracy and skill in political arithmetic are well known, estimates the total amount of the sum expended on the poor of England and Wales, in 1685, at £665,000 ; and contemporary writers estimate it, at the commencement of Queen Anne's reign, at about a million. Previously to this epoch, and for some time after, it had been customary, except in a few great towns, to relieve the able-bodied poor at their own houses. But though some very plausible reasons may be adduced in favour of that plan, we cannot help thinking that it is, of all modes of administering relief, the most effectual to encourage pauperism, and to weaken the spirit of industry. When the poor are relieved at their own homes, they are enabled to continue their former mode of life, with less, or, it may be, without any exertion. If the labourer be really industrious, then it is obvious that a pension from the parish is a *bonus* given to him, over and above the common and average rate of wages earned by independent workmen, merely because he is a pauper ; and if, on the other hand, he is idle, a pension supplies the place of the wages of labour, and enables him to eat the bread of the industrious without molestation ! Under such a system, too, paupers continue to enjoy the society of their families and friends ; they are neither degraded in their own estimation nor in that of the public ; and poverty, instead of being an evil, is, by the mistaken humanity of the Legislature, converted into a blessing.

The palpable disadvantages of this mode of administering relief were distinctly perceived and pointed out by Sir Matthew Hale, and other eminent men, so early as the middle of the seventeenth century ; and to obviate them workhouses were erected in some great towns. The good effects of which these establishments were found to be productive prepared the way for their general introduction ; and in 1723 an act was passed, authorizing the churchwardens and overseers, with consent of the parishioners, to establish a workhouse in each parish : and it was at the same time enacted, that the overseers should be entitled to refuse relief to all who did not choose to accept it in the workhouse, and to submit to all its regulations.

In consequence of this act, workhouses were erected in many parishes, and they had an instant and striking effect in reducing the number of the poor. Many who had previously received a pension from the parish preferred depending on their own exertions, rather than take up their abode in the workhouse. Indeed, the aversion of the poor to workhouses was so great, that Sir F. M. Eden mentions that some, whose humanity seems to have exceeded their good sense, proposed, by way of weakening this aversion, '*to call workhouses by some softer and more inoffensive name.*' \*

We have already seen, that the amount of the poor rates was estimated by Dr. Davenant, in 1685, at £665,000 ; and that contemporary writers had estimated them, at the commencement of last century, at about a million. There is no reason to think that they had been diminished in the interval between 1700 and 1723 ; on the contrary, if we might trust to statements made at the time, by writers of good autho-

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\* State of the Poor, vol. i. p. 285.

riety, we should be disposed to think that they had increased. Assuming, however, that the rates had continued stationary from 1700 to 1723, or that they amounted to a million at the latter epoch, the returns to the orders of the House of Commons show that they were very considerably *reduced* during the next twenty-five years: for, according to the official accounts, it appears that the total sum raised by assessment under the name of poor's rate, in England and Wales, during the three years ending with 1750, amounted, at an average, to £730,135 a year, of which £689,971 were expended on the poor, being a mere trifle more than the sum expended on them at the Revolution, and about £300,000 less than the sum supposed to have been expended at the commencement of the century. This certainly is a very remarkable result; and cannot be explained otherwise than by the operation of the workhouse system.—All the lazy, profligate, and disorderly part of the community necessarily entertain the greatest possible disinclination to the hard labour and severe discipline enforced in every well-conducted workhouse: and those, on the other hand, who are respectable, and who have enjoyed the sweets of domestic society, would rather submit to the severest privations at home, than leave the company of their relations and friends to seek for subsistence in these receptacles of poverty and vice.

We may remark, by the way, that those who have advocated the establishment of workhouses, on the supposition that it might be possible to turn them to good account as manufacturing establishments, or to make them defray the whole, or a very considerable portion of their expense, seem to have greatly misconceived the proper objects and effects of these establishments. It is idle to suppose that the forced labour, — the *vinciti pedes, damnatæ manus, inscripti vultus* of paupers, will ever be able to come into competition with the labour of industrious and independent workmen. The real use of a workhouse is to be an asylum for the able-bodied poor; for the maimed and impotent poor, may, speaking generally, be more advantageously provided for elsewhere: but it ought to be such an asylum as will not be resorted to except by those who have no other resource, and who are wholly without the means of supporting themselves. The workhouses of England, though there have been some exceptions, have, in most instances, been too comfortable. Every possible precaution should be adopted to preserve the health of the inmates, and efforts should be made, by a proper classification or otherwise, to amend their morals, or at least to prevent them from becoming worse. But this is all that ought to be attempted. The able-bodied tenant of a workhouse should be made to feel that his situation is decidedly less comfortable than that of the industrious labourer who supports himself; and that a life of unremitting toil, supported on coarse and scanty fare, is to be his portion so long as he continues in this dependent and degraded state. The humanity of those who would turn workhouses into respectable inns, who would place paupers and beggars on the same level, in point of comfort, with the honest labourer who provides for his own wants, is spurious and mischievous in the last degree. The intentions of such persons may be good; but their mistaken bounty encourages those who receive it to continue in their idle and vicious courses, and weakens all the motives to exertion in others. Who would be industrious, if industry were to be without any peculiar or considerable reward? who



would be provident and parsimonious, if the improvident and the prodigal were to be rendered equally secure against want?

II. But of all the circumstances which contributed to render the growth of pauperism in England so much slower than might have been expected under the system of compulsory provision, the most powerful undoubtedly has been, that that very system made it the obvious interest of the landlords and occupiers of land to oppose themselves to the increase of the labouring population. They saw that if, either by the erection of cottages, the splitting of farms, or otherwise, the population upon their estates or occupancies were augmented, they would, through the operation of the Poor Laws, be burdened with the support of all who, from old age, sickness, want of employment, or any other cause, might become, at any future period, unable to provide for themselves. The wish to avoid incurring such an indefinite responsibility, not only rendered landlords and farmers exceedingly cautious about admitting new settlers upon their estates and farms, but stimulated them to take vigorous measures for the diminution of the population, wherever the demand for labour was not pretty brisk and constant. It is to the operation of this principle that the complicated system of laws, with respect to settlements, owes its origin; and until this system was relaxed, it certainly opposed a formidable barrier to the increase of the agricultural population. By the act 13th and 14th Cha. II., a legal settlement was declared to be gained by *birth*, or by *inhabitaney*, *apprenticeship*, or *service* for *forty* days; but within that period any two justices were authorized, upon complaint being made to them by the churchwardens or overseers, that they thought a new entrant likely to become chargeable, to remove him, unless he either occupied a tenement of the annual value of 10*l.*, or gave sufficient security that he would indemnify the parish for whatever loss it might incur on his account. And by a subsequent act (3 William III. cap. i.) it was enacted, that every new-comer should be obliged to give notice to the churchwardens of his arrival; that this notice should be read in church immediately after divine service; and that the commencement of the forty days during which his settlement might be objected to, should be reckoned only from the publication of such notice. By this means the inhabitants were all apprised of the arrival of every stranger; and unless there were a considerable demand for labour, or the entrant could produce the required security, he could not obtain a settlement; and was, when most indulgently treated, allowed only to remain in the parish by sufferance, being liable to be removed the moment he either married or was likely to become chargeable.

A settlement might also be gained by being hired for a year when *unmarried* and *childless*, and continuing during the whole of that period to serve the same master, or by being bound an apprentice, for the statutory period, to a person who had obtained a settlement.

By the statute 8th and 9th William III. it was enacted, that all parishes should be bound to receive such labourers as held *certificates* legally subscribed by the officers of the parish to which they belonged, acknowledging them to be *their* parishioners, and that they should not be authorized to remove them until they actually became chargeable. But it was always very difficult for such *certificated* persons to gain a settlement in the parishes into which they immigrated; and the parishes to which they belonged were not bound to grant them certificates, this being entirely a matter of grace and favour.



Dr. Smith has severely censured these laws. ‘The very unequal price of labour,’ he observes, ‘which we frequently find in England in places at no great distance from one another, is probably owing to the obstruction which the law of settlement gives to a poor man, who would carry his industry from one parish to another, without a certificate. A single man, indeed, who is healthy and industrious, may sometimes reside, by sufferance, without one; but a man, with a wife and family, who should attempt to do so, would, in most parishes, be sure of being removed; and if the single man should afterwards marry, he would generally be removed likewise. But to remove a man, who has committed no misdemeanour, from the parish where he chooses to reside, is an evident violation of natural liberty and justice.’—i. p. 232.

Whatever may be thought of the concluding sentence of this extract, there can be no doubt that Dr. Smith’s statements with respect to *the effect* of the laws of settlement are well founded. Dr. Burn, who is one of the very highest authorities as to all that respects the poor, has given the following graphical delineation of the peculiar business of a parish overseer. ‘The office of an overseer of the poor seems,’ says he, ‘to be understood to be this, — to keep an extraordinary look-out to prevent persons coming to inhabit without certificates, and to fly to the justices to remove them; and if a man brings a certificate, then to caution the inhabitants not to let him a farm of 10*l.* a-year, and to take care to keep him out of all parish offices\*; to warn them, if they will hire *servants*, to hire them by the month, the week, or the day, rather than by any way that can give them a settlement; or, if they do hire them for a year, then to endeavour to pick a quarrel with them before the year’s end, and so to get rid of them; to maintain their poor as cheaply as they possibly can, and not to lay out two-pence in prospect of any future good, but only to serve the present necessity; to bargain with some sturdy person to take them by the lump, who yet is not intended to take them, but to hang over them *in terrorem*, if they shall complain to the justices for want of maintenance: to send them out into the country a-begging: to bind out poor children apprentices, no matter to whom, or to what trade, but to take special care that the master live in another parish: to move heaven and earth if any dispute happen about a settlement; and, in that particular, to invert the general rule, and stick at no expense: *to pull down cottages: to drive out as many inhabitants, and admit as few as they possibly can; that is, to depopulate the parish in order to lessen the poor’s rate*; to be generous indeed, sometimes, in giving a portion with the mother of a bastard child, to the reputed father, on condition that he will marry her, or with a poor widow, *always provided that the husband be settled elsewhere*; or if a poor man, with a large family, happen to be industrious, they will charitably assist him in taking a farm in some neighbouring parish, and give him 10*l.* to pay his first year’s rent with, that they may thus for ever get rid of him and his progeny.’†

Now, we think it cannot possibly be doubted that the effect of such a system — of a system that united the landlords, farmers, and parish-

\* The only means by which such a person could obtain a settlement.

† Burn’s History of the Poor Laws, p. 211.



officers in a league to oppose the multiplication of the poor, and, above all, to throw every possible obstacle in the way of their marrying, or obtaining cottages, must have had the most powerful influence in repressing the progress of population, and in rendering it not only much slower than it would have been had the system of compulsory provision been allowed to exert its full effect, but slower, we are inclined to think, than it would have been had the poor been left to provide for themselves, and no one had had any interest in checking their increase. There is, indeed, very great reason to doubt whether the purely agricultural population of England was not rather diminished than increased in the interval between the Revolution and 1770. And if we bear in mind that the law of England has, by granting the elective franchise to all persons who are life-renters of a cottage and a slip of land, valued at 40s. a-year, given a very strong stimulus to the increase of cottages, we must be satisfied that some powerful principle has been at work, to render their multiplication so inconsiderable as it has been. Political influence is as dear to an English as to an Irish gentleman: but as the former would, had he manufactured voters by the hundred or the thousand, have made himself directly responsible for their maintenance, he has been deterred by a motive, which has had no influence in the case of the other, to abstain from so ruinous a practice. This, therefore, as it appears to us, is a case in which good has come out of evil. Most landlords early saw the consequences that would infallibly result from their being bound to provide an asylum for all, who, either through misfortune, misconduct, or profligacy, could not provide for themselves; and since they could not subvert the principle of the system, they exerted themselves to counteract it in practice, by adopting every possible device for checking the increase of population, and by administering relief in such a mode as might prevent any but the really indigent from having recourse to it. We shall subjoin one or two statements illustrative of the operation of the principles now mentioned.

Mr. Hay, a member of the House of Commons, who exerted himself to effect a change in some parts of the Poor Laws in 1735, states, in a pamphlet published by him at the time, that *they had led to the depopulation of many parishes*.\* Mr. Alcock, who published his *Observations on the Effects of the Poor Laws* — one of the best tracts that has ever appeared on the subject — in 1752, mentions, that ‘this forced and expensive way of relieving the poor has put many gentlemen and parishes upon contriving all possible methods of lessening their number, particularly by discouraging, and sometimes hindering, poor persons from marrying, when they appear likely to become chargeable, and thereby preventing an increase of useful labourers: by discharging servants in their last quarter, and preventing them from gaining a settlement, whereby they become vagrants, perhaps: by *pulling down cottages, and suffering no places of inhabitation for paupers, whereby estates are flung into a few hands, and several parishes are, in a manner, depopulated*. England complains of a want of useful hands for agriculture, manufactures, for the land and sea service; and for remedying this, a bill for a general naturalization was lately introduced. But the proper way to encourage the inhabitants of a nation is to encourage matrimony amongst the lower sort of people, and thereby stock the

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\* Sir F. M. Eden's *State of the Poor*, vol. i. p. 301.



‘ nation with natural-born subjects. This was the way of the antient Romans. The French, we see, are taking this course; and the English Parliament had very lately a scheme before them to the same purpose. But no scheme, I believe, will ever succeed as long as parishes are so apprehensive of paupers, and *take all manner of precautions to prevent a multiplication of inhabitants*. When the minister marries a couple, he rightly prays that they may be fruitful in procreation of children; but most of the parishioners pray for the very contrary; and perhaps complain of him for marrying persons, that, should they have a family of children, might likely become chargeable.’ — pp. 19, 20.

Perhaps, however, the authority of the late Arthur Young will be reckoned still more conclusive. He was a decided enemy to the system of compulsory maintenance, was intimately acquainted with the state of the labouring classes throughout the kingdom, and with the consequences resulting from the practical operation of the Poor Laws on the progress of population, which he has forcibly described as follows:—

‘ The law of *settlement*,’ says Mr. Young, ‘ is attended with nearly as many ill consequences as that of *maintenance*. I have said enough to prove of how great importance our labouring poor are to the public welfare; the strength of the state lies in their numbers; but the prodigious restrictions thrown on their settlements *tend strongly to prevent an increase*. One great inducement to marriage is the finding, without difficulty, a comfortable habitation; and another, nearly as material when such requisite is found, to be able to exercise in it whatever business a man has been educated to or brought up in. The first of these points is no easy matter to be accomplished; for it is too much the interest of a parish, both landlords and tenants, to decrease the cottages in it, and, above all, to prevent their increase, that, in process of time, habitations are extremely difficult to be procured. There is no parish but had much rather that its young labourers would continue single: in that state they are not in danger of becoming chargeable; but when married the case alters; *all obstructions are therefore thrown in the way of their marrying*; and none more immediately than that of rendering it as difficult as possible for the men, when married, to procure a house to live in; and *this conduct is found so conducive to easing the rates, that IT UNIVERSALLY GIVES RISE TO AN OPEN WAR AGAINST COTTAGES*. — How often do gentlemen, who have possessions in a parish, when cottages come to sale, purchase them, and immediately rase them to the foundation, that they may never become the *nests*, as they are called, of *beggars’ brats*! by which means their tenants are not so burdened in their rates, and their farms let better; for the rates are considered as much by tenants as the rent. In this manner cottages are the perpetual objects of jealousy; the young inhabitants are prevented from marrying, and population is obstructed.’\*

And, not unnecessarily to multiply quotations, we shall only farther observe, that in a debate in the House of Commons, April 28, 1773, on the bill to prevent vexatious removals of the poor, Mr. Graves, in

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\* Farmer’s Letters to the People of England, published in 1770, 3d. edit. vol. i. p. 300-302.



moving for leave to bring in the bill, is reported to have said, ‘ How inconsistent is it with reason that young, hale, vigorous men, whether labourers in agriculture, or manufacturers, who are well able to maintain themselves—nay, more than able to do it—should, on their offering to marry, have notice from the parish-officers that they shall remove them, as likely to become chargeable! *Is not this of all other means the most effectual to prevent and check population?* And did ever any nation under heaven grow great by checking population? Suppose, sir, the couple, in spite of this infamous notice, should persevere in their intention, and marry; they are removed. Gentlemen may say, what harm in that? Why not live in one parish as well as another? I will tell such gentlemen wherein is the mischief: the removal carries them from a place where they can earn 15s. a-week by manufactures, to another where they can get but 10s. by agriculture.’ And Mr. Whitworth said, on the same occasion, ‘ Sir, I have known to the amount of 30 or 40 families sent off by removal orders in one day—a scene highly scandalous, and urging in the strongest manner the necessity of the bill.’

It is thus established, by evidence which it seems impossible to controvert, how much soever the conclusion may be at variance with the opinions that have recently been current on the subject, that from their institution down to a late period, the effect of the Poor Laws was not to increase but to diminish population. The act of the 43d of Elizabeth, by devolving the protection of the poor on the landlords and occupiers of land, compelled the latter to take all possible precautions to prevent the too rapid increase of the former. A premium was given to those who lived in a state of celibacy; early and improvident marriages were discouraged by what could not fail to be considered very severe penalties; and the poor were compelled to exercise that degree of prudence and consideration in their conduct, that we should in vain have expected from their regard to their own interests.

But it is said, that the system by which these results were produced—the law of settlement, and the authority given to the overseers to refuse all relief to those who did not choose to accept it in workhouses,—was a gross violation of a man’s natural liberty, and oppressive in the extreme. We take leave, however, to deny that such was really the case. It is idle to talk about a violation of natural liberty; for that has long ceased to exist. Society, in fact, originates in its annihilation, or, at least, in the restraints imposed upon it; and the real and only question, with respect to any given restraint that either has been or may be imposed, is, whether it is advantageous or not. If it be for the public benefit, it ought certainly to be enforced, and if otherwise, it ought as certainly to be repealed. If we refer to any other standard than this, it is impossible we should ever arrive, except by the merest accident, at any sound conclusion, in any department of political science. Keeping, then, this principle steadily in view, let it also be remembered that it is now universally admitted that the tendency of population, when left to itself, is to increase beyond the means of subsistence; and, by consequence, to plunge the lower classes, who must always form the great majority in every country, into want and wretchedness. But when such is the case, is it not, plainly, the duty of a wise government to adopt measures for the prevention of so great an evil? All civilized countries are in the habit of resorting to the most effective measures to prevent the spread

of epidemics and infectious diseases: but of all the plagues that can afflict a country, the plague of universal poverty is by far the most to be dreaded; and the same principles that warrant us in interfering to guard against the lesser will surely warrant us in endeavouring to avert the greater evil.

Now, admitting that this principle is well founded, it is not very easy to see how it could have been brought into operation in a more beneficial manner than by the system of Poor Laws as they existed previously to 1795. These laws rendered it the direct and obvious interest of the landlords, farmers, and all other persons possessed of fixed property, to oppose themselves to what is by far the most efficient cause of poverty—a too great increase of population. That particular cases of great hardship may have occurred under the operation of this system, we do not presume to deny. But such cases must of necessity occur under the operation of any system that has the same object in view, and is sufficient for its accomplishment. In this case, however, we do not think that there are any good grounds for thinking that such instances were either of frequent or general occurrence. It could not be the interest of the landlords or occupiers to contract the population too much; for, had they done so, wages must have risen proportionally: and it has been justly remarked, that the power conferred by the old law of settlement of removing labourers, had an excellent effect; inasmuch as the labourers who lived in a parish on sufferance, ‘found it necessary to recommend themselves by their good behaviour, and they were generally models of industry and correctness. They had, too, the most powerful of motives for exerting themselves to acquire a sufficiency of property to secure their residence in the parish of their adoption.’\*

It may perhaps be said, that, had the Poor Laws never existed, had the poor not been tempted to place a deceitful trust in parish assistance, their natural sagacity would have led them to act with prudence and consideration, and not to multiply their numbers beyond the demand for them. That this might have been, in some measure, the case, we are not disposed to deny; but considering the state of depression in which the poor have always been involved, and their total ignorance of the real and efficient causes of poverty, there are, we are afraid, very slender grounds for thinking that this influence would have been very sensibly felt. A man must be in tolerably comfortable circumstances before he is at all likely to be much influenced by prospective considerations. Those who have speculated with respect to the operation of the Poor Laws on the prudential virtues, have usually belonged to the upper classes, and have supposed the lower classes to be actuated by the same motives as those with whom they associate. But the circumstances under which these classes are placed are so very different, as to render it exceedingly difficult to draw any accurate conclusion as to the conduct of the one, in respect of such matters, from observations made upon the conduct of the other. A man who is comfortable in his circumstances, must, in order not to lose *caste*, and to secure a continuance of the advantages which he enjoys, exercise a certain degree of prudence.

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\* See an excellent Article on this Subject in the Morning Chronicle of the 28th of December 1827. See also an able Article on the same subject, in the same Journal, 23d November, 1827.



But those who possess few comforts, who are near the verge of human society, and have but little to lose, do not act under any such serious responsibility. A want of caution, and a recklessness of consequences, are in their case productive of comparatively little injury, and in consequence they are less guarded against. The widest and most comprehensive experience proves that this is the case. The lower we descend in the scale of society, the less consideration and forethought do we find to prevail. When we either compare the different classes of the same country, or of different countries, we invariably find, that poverty is never so little dreaded as by those who are most likely to become its victims. The nearer they approach to it, the less is it feared by them. And that generally numerous class, who are already so low that they can fall no lower, eagerly plunge into every excess; and seek only immediate gratifications, without either thinking or caring about the consequences.

On the whole, therefore, we confess that we see but little reason for thinking that the fear of being left destitute in old age, had the Poor Laws not existed, would have operated so powerfully in the way of deterring those who were already poor and uninstructed, as the labouring classes throughout England have generally been, from entering into improvident unions, as the formidable restraints that grew out of the Poor Laws. ‘A labouring man in his youth,’ it has been justly observed, ‘is not disposed to look forward to the decline of life, but listens to the impulses of passion. He sees the picture through the deceitful mirror which his inclinations hold up to him. Those restraints which persons of property, interested in keeping down poor-rates, will infallibly oppose, are much more likely to be efficacious than those which he will impose on himself. Till lately, no pauper could marry, and *no pauper ought to be allowed to marry*. If there was no opening for a married man in his own parish, and if the attempt to marry in another led to his removal as a pauper, the labourer found himself governed by circumstances to which his inclinations were forced to yield.’\*

We have already seen that the average annual amount of the sums expended for the relief of the poor of England and Wales, during the three years ending with 1750, amounted to £689,971. The rapid increase of population in the towns and villages subsequently to the peace of Paris, in 1763, arising out of the extraordinary extension of manufactures and commerce, occasioned a considerable relaxation in the system previously adopted of providing for the poor at workhouses. Still, however, the progress of the rates was by no means rapid. During the years 1783, 1784, and 1785, being those immediately subsequent to the termination of the American war, most sorts of businesses were very much depressed; the crops were also deficient, and the prices of corn, and the quantities imported, rose to an unusual height. But notwithstanding these adverse circumstances, the rates, on an average of these three years, amounted to only £2,167,748, of which £1,912,241 were expended on the poor, being about a million more than had been expended upon them at the commencement of the century; an increase which, considering that the population of England and Wales is supposed to have been augmented, in the interval between 1700 and 1780, from 5,475,000 to 7,953,000, and con-

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\* Morning Chronicle, 28th December.



sidering also the peculiar circumstances of the country at the latter period, must certainly be reckoned very inconsiderable; and can only be accounted for by the powerful operation of the causes already alluded to, in retarding the progress of population.

We have no subsequent account of the amount of the poor's-rate, previously to the year 1803; but inasmuch as the period from 1785 to the commencement of the late French war in 1793, was one of uninterrupted agricultural and commercial prosperity, it may safely be concluded that the rates were considerably lower in 1793 than in 1785. How much this reduction might amount to, it is impossible accurately to conjecture, but at the commencement of the late war, they could hardly, one should think, exceed £1,400,000, or £1,500,000 a-year.

Unfortunately, however, an entire revolution was now effected in the mode of administering the Poor Laws — a revolution which not only removed almost all the barriers by which the progress of pauperism had previously been opposed, but which has multiplied its victims, even in spite of themselves. The old system had been somewhat relaxed in 1782, by Mr. Gilbert's act, which, by incorporating parishes together, prevented the landlords and tenants from feeling that intense interest in the restriction of population and pauperism, that they could not help feeling when they were brought within their immediate observation, and exhibited themselves within the sphere of their immediate influence. But it was not until 1795 that the flood-gates of pauperism were set open, and the encouragement of improvidence made a national concern. The price of corn, which had, upon an average of the three preceding years, averaged 54s, rose, in 1795, to 74s. As wages continued stationary at their former elevation, the distress of the poor was very great, and many able-bodied labourers, who had rarely before applied for parish assistance, became claimants for relief. But, instead of meeting this emergency, as it ought to have been met, by temporary expedients, and by grants of relief proportioned to the exigency of every given case, one uniform system was adopted. The magistrates of Berks, and some other southern counties, issued tables, showing the wages which, as they affirmed, every labouring man *ought* to receive, according to the variations in the number of his family, and the price of bread; and *they accompanied these tables with an order, directing the parish officers to make up the deficit to the labourer, in the event of the wages paid him by his employers falling short of the tabular allowance.* An act was at the same time passed, to allow the justices to administer relief *out* of the workhouse, and also to relieve such poor persons as had property of their own! As might have been expected, this system did not cease with the temporary circumstances which gave it birth; but has ever since been acted upon. It is now almost universally established in the southern half of England; and has been productive of an extent of mischief that could hardly have been conceived possible.

We need not dwell on the folly and absurdity of attempting to make the wages of labour vary directly and immediately with every change in the price of bread. Every one must see, that if this system were *bona fide* acted upon — if the poor were always supplied with the power of purchasing an equal quantity of corn, whether corn happened to be abundant and cheap, or scarce and dear, they could have no motive to lessen their consumption in seasons when the supply is deficient, so that the whole pressure of the scarcity would, in such



cases, be removed from them, and thrown entirely upon the other, and chiefly the middle classes. But not to insist on this point, let us look at the practical operation of this system as it affects the labourer and his employers. The allowance scales now issued from time to time by the magistrates are usually framed on the principle, that every labourer should have a gallon loaf of standard wheaten bread weekly, for every member of his family, and one over, that is, four loaves for three persons, five for four, six for five, and so on. Suppose now that the gallon loaf costs 1s. 6d., and that the average rate of wages in any particular district is 8s. a-week: A, an industrious unmarried labourer, will get 8s.; but B has a wife and four children, hence he claims *seven* gallon loaves, or 10s. 6d. a-week; and as wages are only 8s., he gets 2s. 6d. a-week from the parish: C, again, has a wife and six children; he consequently requires *nine* gallon loaves, or 13s. 6d. a-week, and gets, of course, a pension, over and above his wages, of 5s. 6d.: D is so idle and disorderly that no one will employ him; but he has a wife and five children, and is in consequence entitled to *eight* gallon loaves for their support; so that he must have a pension of 12s. a-week, to support him in his dissolute mode of life!

It is clear that this system, by making the parish allowance to labourers increase with every increase in the number of their children, must act as a bounty on marriage; and that by increasing the supply of labourers beyond the demand, it must necessarily depress the rate of wages: and it is farther clear, that by giving the *same* allowance to the idle and disorderly, as to the industrious and well-behaved workman, it must operate as a premium on idleness and profligacy, and take away all the most powerful motives to industry and good conduct. These, however, are not the only effects of this system. Under its operation a labourer dares not venture to earn beyond a certain amount; for if he did, his allowance from the parish would either be withheld altogether, or proportionally reduced. In consequence, working by the piece is now nearly unknown in the southern counties of England; and the whole labouring population are reduced to the condition of paupers, deprived of the means, and almost of the desire, to emerge from the state of helotism in which they are sunk.

The following extracts from the Report of the Committee of the House of Commons on labourers' wages, printed in 1824, will show that we have not exaggerated the evils of the allowance system.

'A labourer,' say the Committee, 'being quite certain of obtaining an allowance from the parish sufficient to support his family, it consequently becomes a matter of indifference to him whether he earn a small sum or a large one. It is obvious, indeed, that a disinclination to work must be the consequence of so vicious a system. He whose subsistence is secure without work, and who cannot obtain more than a mere sufficiency by the hardest work, will naturally be an idle and careless labourer. *Frequently the work done by four or five such labourers does not amount to what might easily be performed by a single labourer working at task-work.*

'A surplus population is encouraged,—men who receive but a small pittance *know that they have only to marry, and that pittance will be increased proportionally to the number of their children.* Hence the supply of labour is by no means regulated by the demand; and parishes are burdened with thirty, forty, and fifty labourers, for whom they can find no employment, and who serve to depress the



‘ situation of all their follow-labourers in the same parish. An intelligent witness, who is much in the habit of employing labourers, states, that when complaining of their allowance they frequently say to him, *We will marry, and then you must maintain us.*

‘ This system secures subsistence to all; to the idle as well as to the industrious; to the profligate as well as the sober; and *as far as human interests are concerned, all inducements to obtain a good character are taken away.* The effects have corresponded with the cause;—able-bodied men are found slovenly at their work, and dissolute in their hours of relaxation; a father is negligent of his children; the children do not think it necessary to contribute to the support of their parents; the employers and the employed are engaged in perpetual quarrels; and the pauper, always relieved, is always discontented: crime advances with increasing boldness; and the parts of the country where this system prevails are, in spite of our gaols and our laws, filled with poachers and thieves.’—pp. 3, 4.

The wages of labour in the southern counties, where this system is in full operation, are not only extremely different in different parishes, but are universally very much below their level in the northern counties, to which, fortunately, this pestilence has not yet extended. Thus it is stated in the Report to which we have now referred, that in many parishes of Kent, Suffolk, Bedford, Essex, Norfolk, &c., wages were, in 1824, as low as 6*d.* a-day, or 3*s.* a-week; that in others they amounted to 4*s.* and 5*s.*; in others again to 6*s.*; and in some they rose as high as 9*s.*, which was the maximum; while in Northumberland, Cumberland, Lancashire, and other northern counties still free from this contamination, wages fluctuated from 12*s.* to 15*s.* a-week.

In his evidence before the Emigration Committee, Mr. Hodges, Chairman of the West Kent Quarter Sessions, says, ‘ Formerly working people usually staid in service till they were twenty-five, thirty, or thirty-five years of age, before they married; whereas they now marry frequently under age. Formerly these persons had saved 40*l.* or 50*l.* before they married, and they were never burdensome to the parish.’ And in another place he says, ‘ that now, they have not saved a shilling before their marriage, and become immediately burdensome.’\*

There is one circumstance connected with the allowance system, which has rendered the farmers less anxious to get rid of it than might at first be supposed. Had the burden of the rates fallen *wholly* on them, whatever they might have gained by a reduction of wages below the tabular allowance would have been lost by a corresponding rise of the rates: but although there can be no doubt that, owing to the stimulus it has given to population, and the premium it holds out to idleness, the sum that is *now* paid by the farmers in rates and wages taken together is very decidedly greater than they would have had to pay for labour had the allowance system never been in operation, it has, notwithstanding, led many of them to suppose that it was advantageous to them, by obliging others to pay a part of the wages of their labourers. By combining together, as they almost uniformly do, the farmers in agricultural parishes can reduce the rate of wages to any limit they please. They are enabled to do this, because the parish, by granting such a supplementary allowance to the labourer as will

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\* Report, p. 184.



support him and his family, prevents him from emigrating to another district, as he would most certainly do were his employers to attempt artificially to depress his wages in a country unfettered by this system. And as the supplementary allowance paid the labourers by the parish is derived from a tax laid indiscriminately on all fixed property, its effect is to force the occupiers of villas, as well as shopkeepers, tradesmen, &c., or those who do not employ labourers, to pay a portion of the wages of those who do ; and thus to place every farmer who might be disposed to act on a more liberal system, in a relatively disadvantageous situation ! The farmers are, in this way, led to encourage a system which fraudulently imposes a heavy burden upon others ; and which, by degrading the labourers, and multiplying their numbers beyond the real demand for them, must, if allowed to run its full course, ultimately overspread the whole country with the most abject poverty and wretchedness. †

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It must be obvious to every one, that if we would avert the plague of universal poverty from the land, a vigorous effort must be made to counteract this system. It is said, that the most effectual method for the accomplishment of this desirable object would be, to enact that no able-bodied labourer should in future be entitled to parish relief. It may be doubted, however, whether such a plan could, in the existing circumstances of the country, be carried into effect ; and there can be no doubt that the evil may be checked by less violent means. All, in fact, that is indispensable is, to revert to the system established previously to 1795 ; to abolish every vestige of the allowance system ; and to enact that no able-bodied labourer shall henceforth be entitled to relief unless he choose to accept it in workhouses conducted in the mode already explained. Such a system would shut the flood-gates of pauperism, and would tend to improve the habits of the poor, to lessen their numbers, and to raise them in the scale of society.

But there are several other highly important measures that ought to be adopted, in order the more effectually to arrest the progress of pauperism. There was nothing, as we have already seen, that formerly contributed so much to prevent the too rapid increase of population, as the efforts made by the landlords and farmers to prevent the erection of cottages. But since 1795 a very great change has taken place in this respect. In the counties of Suffolk, Sussex, Kent, and generally, indeed, through all the south of England, the parish officers are in the custom of undertaking to pay the rent of the cottages occupied by the poor ; and, in consequence, persons who possess small pieces of ground are tempted to cover them with cottages, the sum which they have to pay to the rates being a mere trifle, compared with the profits which they make from letting the cottages on advantageous terms to the parish. Mr. Hodges, chairman of the West Kent Quarter Sessions, Mr. Curteis, member for Sussex, Mr. Burrell, member for Suffolk, Mr. Cosway, &c., gentlemen who have had the best possible opportunities for forming a correct opinion on this point, stated, in their evidence before the Emigration Committee, that there had been a very

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† In support of these statements, the Reviewer quotes a Memorial of the Magistrates of Suffolk to the Committee of the House of Commons on the Poor Laws, in 1817, in which the mischiefs arising from the fraudulent operation of the allowance system are placed in a striking point of view.



great increase of cottages of late years, and that this increase had contributed, in no ordinary degree, to increase the number of the poor. Mr. Hodges gave it as his clear opinion, that unless a stop were put to the increase of cottages, all other regulations with respect to the poor would be absolutely nugatory. ‘ I cannot forbear,’ said this very intelligent gentleman, ‘ urging again, that any measure having for its object the relief of parishes from their over-population, *must of necessity become perfectly useless, unless the act of Parliament contain some regulations with respect to the erecting and maintaining of cottages. I am quite satisfied that the erecting of cottages has been a most serious evil throughout the country. The getting of a cottage tempts young people of seventeen and eighteen years of age, and even younger, to marry. It is notorious that almost numberless cottages have been built by persons speculating on the parish rates for their rents.*’ \*

Can any one doubt for a moment that the legislature is bound to put an end to this practice? The parish officers should be interdicted from contributing any thing whatever to the payment of the rent of a cottage occupied by an able-bodied labourer. But this, of itself, would not be enough. We concur entirely in opinion with Mr. Hodges, Mr. Curteis, and Mr. Cosway, that the trade of building ‘ beggars’ nests’ is not one that deserves to be encouraged; and we also agree with them in thinking, that, in order to check it, cottages ought either to be universally subjected to a pretty heavy tax, to be, in all cases, levied from the proprietor and made payable to government, or that parishes should be authorized to impose such an assessment as they think proper on the proprietors of cottages, in aid of the rates. It is not to be endured, that the owner of a few acres should be permitted to enrich himself by founding a colony of beggars, which must be maintained at the expense of the landlords and occupiers of the parish. Such an abuse calls for immediate and effectual redress.

It is also deserving of consideration, whether the power now possessed by the magistrates, of revising the proceedings of parishes, and of the overseers appointed by them, and ordering the poor relief in cases in which it is refused by the latter, ought to be continued. And it seems also highly expedient that the existing law of bastardy should be reviewed; and that the premium that is now given to those who commit a *faux pas* should be considerably diminished.

But, supposing all the measures we have now proposed were adopted, still they would not be enough to arrest the torrent of pauperism. The poor of England have suffered much and deeply from the change made in the administration of the Poor Laws in 1795; but of late years they have suffered still more from the influx of Irish paupers. Great Britain has been overrun by half-famished hordes, that have, by their competition, lessened the wages of labour, and, by their example, degraded the habits and lowered the opinions of the people with respect to subsistence. But great as the mischief is that has already been occasioned by this barbarian immigration, it is trifling indeed to what we may confidently predict will be produced by it, if no efforts be made to put a stop to it. The facilities of conveyance afforded by steam navigation are such, that the merest beggar, provided he can command a sixpence, may get himself carried from Ireland to England. And when such is the fact,—when what may, almost without a metaphor, be termed float-

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\* First Report, Appendix, pp. 136, 185.



ing-bridges, have been established between Belfast and Glasgow, and Dublin and Liverpool, — does any one suppose, that if no artificial obstacles be thrown in the way of immigration, or if no efforts be made to provide an outlet in some other quarter for the pauper population of Ireland, we shall escape being overrun by it? It is not conceivable that, with the existing means of intercourse, wages should continue to be, at an average, 20*d.* a-day in England, and only 4*d.* or 5*d.* in Ireland. So long as the Irish paupers find that they can improve their condition by coming to England, thither they will come. At this very moment, *five* or *six* millions of beggars are all of them turning their eyes, and many of them directing their steps, to this land of promise! The locusts that ‘will eat up every blade of grass, and every green thing,’ are already on the wing. The danger is great and imminent; and can only be averted by the prompt adoption of the most decisive measures.

It is the bounden duty of government to organize measures calculated to raise the people of Ireland from the abyss of poverty and destitution into which they have sunk. But these measures, how judiciously soever they may be devised, must necessarily be slow in their operation. No very immediate change, either in the habits or circumstances of the Irish people, can be expected to result from them. Years must elapse before their influence can be very sensibly felt. It is idle, therefore, to trust to them for protection from a pressing and immediate calamity. We must resort to a less circuitous system. Seeing that we cannot raise the people of Ireland to the same level as those of Britain, we are bound to take effectual precautions to prevent them from bringing the latter down to their own. The *salus populi* imperiously requires that an end should be put to the farther influx of Irish paupers. It is in vain to palter with so great an evil. The present state of things is destructive of the happiness and comfort of the people of Britain, without being of the least advantage to Ireland. A law should, therefore, be enacted, to prevent any individual coming from Ireland to Britain without a passport; and the custom-house officers ought to be instructed to refuse passports to all who cannot establish, by satisfactory evidence, that they belong to some other class than that of labourers, or that they have some other object in view in visiting Britain, than that of employing themselves as labourers. The same thing might, perhaps, be more easily effected by imposing a pretty heavy tax on all passengers, and making the owners of the vessel responsible for its payment. But, however the object may be attained, we hold that it is indispensable that a stop should be put to the farther immigration of paupers. When the people of Ireland have been raised to something like the same level as those of England, the freest intercourse may be allowed between the two countries. Till then, however, we must stand on the defensive. Justice to ourselves requires that we should erect a bulwark, capable of throwing back the tide of poverty that is now setting so strongly against us.

At present we have neither time nor space to enter upon any discussion of the means that ought to be adopted for improving the condition of Ireland. But the more we consider the subject, the more firmly are we convinced of the propriety of encouraging emigration, on a very large scale, to our trans-atlantic possessions; and of defraying the cost of that emigration, partly by a tax on the rent of land, and partly and chiefly by a heavy tax on cottages, to be in every



instance paid by the proprietor. The thanks of the country are justly due to Mr. Wilmot Horton, for the great zeal, talent, and perseverance which he has displayed in bringing the question of emigration fully and fairly before the public. We hope he will not be disconcerted by the little interest the subject seems to have excited in the House of Commons. He may be assured that it will, at no distant period, force itself upon the consideration even of the most callous and indifferent. The clamour that has of late been raised against the proceedings of the landlords of Ireland, under the subletting act, appears to us to be utterly without foundation. The circumstances of the country are unfortunately such as to prevent the provisions of that wise and excellent statute from being rapidly carried into effect. It is, in most cases, impossible to act upon it; and we are much afraid that many landlords will not think it for their advantage to enforce it, even though they had the power. For this reason Government ought to interfere, by assisting and stimulating the landlords to remove the surplus population that is at present hutted upon their estates; and, when this is done, such measures ought to be adopted as will render it for the *interest* of the landlords to exert themselves to the utmost to prevent the recurrence of the evil. If Government do not interfere, there is but too much reason to fear that the subletting act will become a mere dead letter. And if so, there will no longer be any means of setting bounds to that endless division and subdivision of the land, which has been and is the curse of Ireland. The numbers and the misery of the population will go on increasing, until the whole country, from the Giant's Causeway to Cape Clear, be overspread with potato beds, and hordes of half-naked and half-starved savages.\*

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#### CAUSES AND CURE OF DISTURBANCES AND PAUPERISM.†

THE outrages that have broken out during the last few months among the peasantry of the southern counties of England — their tumultuary assemblages — the terms they have dictated to their employers — their attacks upon machinery — the repeated instances that have occurred of incendiarism — (with which there is but too much reason to suppose that some of the labourers have been connected) — and the proceedings under the late Special Commission, afford topics of deep and painful interest. But much as these outrages are to be regretted, evincing, as they do, the existence of great irritation, distress, and ignorance, it is some satisfaction to know that the sphere to which they have extended is but of limited extent. The northern, and most of the midland coun-

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\* Here follows a Table, containing an Account of Money raised by Poor's Rates, &c., within the Years 1813, 1814, and 1815. See page 330.

† Three Lectures on the Rate of Wages, with a Preface on the Causes of the present Disturbances. By N. W. Senior, Esq. 2. State of the Nation at the Close of 1830. By T. Potter Macqueen, Esq. 3. Bill to facilitate Emigration to his Majesty's Possessions abroad, ordered by the House of Commons to be printed 22d February 1831. 4. Bill to amend the Laws in England relative to Game, ordered by the House of Commons to be printed 15th February 1831. — Vol. liii. p. 43. March, 1831.



ties, have been perfectly tranquil; and though, in such a complicated system as ours, it is impossible, perhaps, to fix on any period in which some important business is not depressed, and those dependent upon it involved in distress, which is always the most prolific source of disorder, we are bold to affirm, that at no former period has industry been in a healthier condition. Most sorts of farm produce bring good prices. Our manufactures are all in a state of activity, and most classes of workmen receive high wages. To whatever causes, therefore, the distress of the peasantry in some districts of the South, and the outrages that have been perpetrated, may be ascribed, they must be of a local and partial character. Had it been otherwise, Northumberland and Durham would not have escaped calamities that have been so prevalent in Kent and Hampshire.

Many, both in the House of Commons and out of doors, ascribe all the distress that now exists, and all that has at any time existed, in the country, during the last ten years, to the proceedings with respect to the currency in 1819, and the return to specie payments in 1821. Such ridiculously exaggerated statements carry with them their own refutation. We do not mean to deny that the act of 1819 made some addition to the burdens of the country, but that addition was comparatively trifling; and Parliament could not have refused to restore the standard, without receding from the express terms of the contract into which it had entered with those who advanced money to the state. But it is not necessary to enter at present into any vindication of the return to specie payments at the old standard. Whatever additions it may have made to the public burdens, no one has hitherto dreamed of affirming that it added more to those of one district or county than to those of another. It is clear, therefore, that it has had nothing to do with the *peculiar* distresses of the peasantry of the South. It would be easy, indeed, to show that the labouring classes are always benefited by a rise in the value of money, and injured by its fall. But though the reverse were true, it is obvious, inasmuch as the value of money rose to the same level in the Lothians as in Kent or Sussex, that this rise affords no explanation of the peculiarly depressed condition of the agricultural labourers in many districts of the latter.

Nearly the same remarks may be made as to taxation. There was indeed one tax, that on sea-borne coal, which pressed exclusively upon the southern counties, and inflicted on them far more injury than would be readily imagined by those who look only to the amount of the tax. But thanks to the press and Lord Althorpe, this odious impost has been repealed; and it will ever be a subject of astonishment how a tax so glaringly unjust and oppressive,—a tax not only upon a necessary of life, but upon the most important instrument of manufacturing industry, was suffered to exist for so long a period. Pernicious, however, as the influence of this tax certainly was, its operation is not sufficient to account for the condition of the southern counties. That it inflamed and aggravated the existing distress, there cannot be a doubt; but it did not create it. Other causes were at work of a still more powerful and destructive character. But with the exception of the tax on sea-borne coal, the other taxes press equally on all parts of the island. They are as heavy in the most as in the least flourishing districts, and might with as much truth be said to be the sole cause of the peculiar prosperity of the latter, as of the peculiar depression of the former. We certainly have no wish to underrate the inconveniences arising from



heavy taxation. But it is an evil inseparable from our condition; for so long as the public faith is preserved unbroken, and adequate provision made for maintaining tranquillity, and national independence and honour, so long must a very large revenue be raised. It is certain, however, that the pernicious influence of our system of taxation has been much exaggerated; and though we should charitably acquit those who represent it as the sole or principal cause of all public distresses, of any intention to inflame popular prejudice, and excite discontent, we should be forced to maintain that they are exceedingly ignorant of the effects of taxation, and of the sources of public wealth. We shall at no distant period enter fully into the subject of tithes, and shall endeavour to ascertain and illustrate the principle on which they ought to be commuted. But though none can be more fully impressed than we are with a conviction of the mischievous and demoralizing influence of this impost, still it is a general, and not a local evil, and will not, therefore, account for distresses and disturbances incident only to the South. That it has increased their intensity and violence, is most true. Tithe, however, is levied in districts that have been perfectly tranquil, and without laying other abuses to its charge, its own natural operation is sufficient for its condemnation.

But if the distresses that afflict the southern counties can neither be ascribed to the return to specie payments, nor to the pressure of taxation, still less can they be ascribed — as Mr. Sadler and others of that school would have us believe — to the ascendancy of the doctrines as to free trade. How these astute persons may explain it, we do not presume to conjecture; but the fact is unquestionable, that those branches of industry that were said to be ruined by the ‘newfangled’ theories of ‘hard-hearted’ economists, are in the most flourishing condition. This is especially the case with the silk and glove trades. We believe we are warranted in affirming that the trade of Spitalfields was never in a sounder state than at present; and the British silk manufacture is now nearly three times as extensive as when Mr. Huskisson originated those well-advised and judicious measures which so many contended would be productive of its ruin. The trade of Glasgow has been, for the last two years, exceedingly prosperous; and the same may be said of the trade of Manchester, Birmingham, and generally, indeed, of all the great manufacturing towns. Agriculture is the only great branch of national industry not in a satisfactory condition, and exposed to ruinous vicissitudes; and we take leave to say, that it is idle to expect that it will ever be otherwise, without a decided modification of the present corn laws. They are most hostile to the best interests of all classes, and to none are they more hostile than to those of the agriculturists. Still, however, the operation of these laws is not partial. They are as injurious in Scotland as in England, and are in no respect more mischievous in the southern than in the northern counties.

Seeing, therefore, that the distress which exists in many districts of the South, cannot be accounted for by the operation of any of those general causes on which so much stress has been laid, we must seek for its sources in those that are more confined and limited in their operation; and these, certainly, are not difficult to discover. There can be no doubt whatever, that the comparatively depressed condition of the labouring classes in the South may, for the most part, be fairly ascribed to the abuse of the poor-laws in that part of the empire. Instead of securing a refuge for the really destitute, the poor-laws have been per-



verted in the southern counties to the very worst purposes ; they have been made a means of reducing wages to the lowest level, of pauperising the whole population, and of throwing a large proportion of the expense of labour upon those who do not employ a single labourer. This perversion began in 1795. The circumstances in which it originated have been explained by Sir F. M. Eden, and others. The prices of corn, and most other articles of provision, having risen to an unusual height in 1795, the condition of the labourers was changed very much for the worse, and many of them were subjected to severe privations and difficulties. But instead of meeting the exigencies of particular cases as they arose, one uniform system was for the most part adopted. The practice appears to have begun in Berks. The justices of that county issued tables in 1795, stating what the wages per week of a labourer should be, according to the magnitude of his family, and the price of the gallon loaf; directing, at the same time, the overseers, and others concerned in the management of the poor, to regulate their allowances accordingly. And, by an act passed in 1796, (36th Geo. III. cap. 23.) the orders of the justices to this effect were rendered valid, notwithstanding any regulations to the contrary. In consequence, the system did not cease with the accidental circumstances that gave rise to it, but has ever since been allowed to continue to spread pauperism and improvidence over the greater part of the South. Happily, the contamination has not yet extended to the North.

In the first table issued by the Berkshire magistrates, the minimum weekly wages of an unmarried labourer, supposing the gallon loaf to sell at 1s., were set down at 3s.; when married, and having one child, wages were to be at least 6s.; if he had five children, they were to be at least 12s.; if he had seven children, they were to be 15s. In the event of the price of the gallon loaf rising from 1s. to 1s. 6d., the wages of an unmarried man were not to be less than 4s. 3d. a week; while the wages of a married man, with a single child, were not to be less than 8s. 3d.; and those of a married man, with seven children, not less than 20s. 3d. The monstrous folly of such regulations must be obvious to every one; and considering how prevalent they have become in the southern counties, can any one wonder at their being overrun with pauperism, idleness, and crime? The attempt to make the wages of labour vary directly with the variations in the price of bread, displays a total ignorance of the most obvious principles;—it is an attempt to secure to labourers the same supply of food in scarce, as in plentiful years, and, consequently, to relieve them from the necessity of making those retrenchments, by which a deficient supply is distributed over the whole year, and absolute famine averted. But this regulation was wisdom itself, compared with that which increased the wages of the labourer precisely in proportion to the number of his children. Of all the stimuli that could be applied to increase the pauper population of the country, this was the most efficient. It did whatever a public regulation could do to destroy all forethought and consideration on the part of the poor. Instead of marriage being a connexion formed with due deliberation, after comparing its pleasures and advantages with the contingent difficulties that might arise from having a family to provide for, it came to be principally looked to as a means of augmenting the claims of the parties on the parish. The practical results have been precisely such as might have been anticipated. Mr. Hodges, M.P. for Kent, stated, in his very valuable evidence before



the Emigration Committee, that formerly labouring people in Kent (and the same is true of the other southern counties) usually staid in service till they were twenty-five, or thirty, or thirty-five years of age, and until they had saved from 40*l.* to 50*l.*, and some much more; but that now they married early, very often when *minors*, speculating upon parish relief, and upon something being done for them. *The moral character of the poor*, Mr. Hodges adds, *has been totally changed within my memory.* (*First Report*, p. 136.)\*

The operation of the system on the industry of the labourers is equally disastrous. It has reduced the earnings of the sober and industrious to the same level as those of the profligate and idle. The conduct of a labourer is no longer regarded in determining his wages. These have been made to depend on the tables put forth by the magistrates, by whom all classes — the prodigal and the parsimonious, the careless and the diligent, the able-bodied and the feeble, are put on the same footing! Were the allowance-tables entitled, Rules for the Discouragement of Industry and Providence, and the Encouragement of Idleness and Improvidence, they would be pretty correctly described.

In many districts, bodies of labourers, under the name of *roundsmen*, or *gangs*, are sent round to the farmers, and receive always a part, and sometimes the whole, of their subsistence from the parish, while working upon the lands of individuals. The farmer is thus tempted either to dismiss altogether, or greatly reduce the wages of the regular labourers in his employment. In the South, every sort of industrious undertaking is either carried on by means of paupers or helots, or the wages of those who carry it on are reduced by their competition. The magistrates and overseers fix the tariff of human subsistence. Its amount is not determined by the fair competition of the parties, on the principle of contending interests and compromised advantage. Owing to the factitious increase of population caused by the allowance-system, the labourer is without the means of stipulating for wages. He must take what is offered to him; and the magistrates have only to consider, how far they may go in reducing the allowances without exciting a *bellum servile*.

Mr. Senior has made some very pertinent and striking observations on this subject, in the preface to his valuable Lectures on Wages. ‘In the natural state,’ says he, ‘of the relation between the capitalist and the labourer, where the amount of wages to be paid, and of work to be done, are the objects of a free and open bargain; where the labourer obtains, and knows that he is to obtain, just what his services are worth to his employer, he must feel any fall in the price of his labour to be an evil, but is not likely to complain of it as an injustice. Greater exertion, and severer economy, are his first resources in distress; and what they cannot supply, he receives with gratitude from the benevolent. The connexion between him and his master has the kindliness of a voluntary association, in which each party is conscious of benefit, and each feels that his own welfare depends, to a certain extent, on the welfare of the other. But the

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\* Mr. Burke, who had a far more profound and extensive knowledge of the just principles of public economy than any other statesman of his time, pointed out, with a prophetic and powerful pen, the consequences of this tampering, in his Tract entitled *Thoughts and Details on Scarcity*.



‘ instant wages cease to be a bargain, the instant the labourer is paid,  
 ‘ not according to his *value*, but his *wants*, he ceases to be a freeman.  
 ‘ He acquires the indolence, the rapacity, and the malignity, but not  
 ‘ the subordination, of a slave. He is told that he has a *right* to wages,  
 ‘ but that he is *bound* to work. Who is to decide how hard he ought  
 ‘ to work, or how hard he does work? Who is to decide what amount  
 ‘ of wages he has a *right* to? As yet the decision has been made by  
 ‘ the overseers and the magistrates. But they were interested parties.  
 ‘ The labourer has appealed to *force* to correct that decision.’

It may appear astonishing that a system productive of such results should have been allowed to grow up; but it will appear so to those only who do not reflect on the circumstances which gave it birth, and who are unacquainted with the causes of its being continued. It was entered into from benevolent motives. Unhappily, however, the ignorance of the magistrates and the legislature of all those principles that ought to have guided their proceedings, in endeavouring to provide for the exigencies of the poor, has changed their intended benevolence into a bitter curse. And the system, once established, has been continued, because the farmers contrived to throw a portion of the burdens growing out of it upon others; and because of the difficulty of dealing with the mass of pauperism it has engendered.

Had the employers of labour been always identical with the payers of the rates, there is reason to think that the allowance system would never have made any considerable progress, and that it would long since have been rooted out. But, in consequence of all sorts of fixed property being assessed to the poor's rate, a large proportion of the wages of farm labour is, in many cases, paid by those who have no concern with agriculture; and hence it is that this system combines injustice to others with degradation to the poor. Its tendency is, to rob the former and enslave the latter.

Lest readers resident in those happy districts into which this system has not been introduced, should accuse us of exaggerating its pernicious influence, we beg leave to lay before them the following extract from the Report of the Select Committee of the House of Commons on Labourers' Wages, printed in 1824. It is highly deserving of attention.

‘ The evils which follow from the allowance system may be thus enumerated:—

‘ 1st, The employer does not obtain efficient labour from the labourer  
 ‘ whom he hires. In parts of Norfolk, for instance, a labourer is quite  
 ‘ certain of obtaining an allowance from the parish, sufficient to sup-  
 ‘ port his family; it consequently becomes a matter of indifference to  
 ‘ him, whether he earns a small sum or a large one. It is obvious,  
 ‘ indeed, that a disinclination to work must be the consequence of so  
 ‘ vicious a system. He whose subsistence is secure without work,  
 ‘ and who cannot obtain more than a mere sufficiency by the hardest  
 ‘ work, will naturally be an idle and careless labourer. Frequently  
 ‘ the work done by four or five such labourers does not amount to  
 ‘ what might easily be performed by a single labourer at task-work.  
 ‘ Instances of this fact are to be found in the evidence, and in the  
 ‘ statement of all persons conversant with the subject.

‘ 2dly, Persons who have no need of farm labour, are obliged to  
 ‘ contribute to the payment of work done for others. This must be

‘ the case wherever the labourers, necessarily employed by the farmers, receive from the parish any part of the wages which, if not so paid, would be paid by the farmers themselves.

‘ 3dly, A surplus population is encouraged ; men who receive but a small pittance know that they have only to marry, and that pittance will be augmented in proportion to the number of their children. Hence the supply of labour is by no means regulated by the demand, and parishes are burdened with thirty, forty, and fifty labourers, for whom they can find no employment, and who serve to depress the situation of all their fellow-labourers in the same parish. An intelligent witness, who is much in the habit of employing labourers, states, that when complaining of their allowance they frequently say to him, “ *We will marry, and then you must maintain us.*”

‘ 4thly, By far the worst consequence of the system is, the degradation of the character of the labouring class.

‘ There are but two motives by which men are induced to work ; the one, the hope of improving the condition of themselves and their families ; the other, the fear of punishment. The one produces industry, frugality, sobriety, family affection, and puts the labouring class in a friendly relation with the rest of the community ; the other causes, as certainly, idleness, imprudence, vice, dissension, and places the master and the labourer in a perpetual state of jealousy and mistrust. Unfortunately, it is the tendency of the system of which we speak, to supersede the former of these principles, and introduce the latter. Subsistence is secure to all ; to the idle, as well as the industrious ; to the profligate as well as the sober ; and, as far as human interests are concerned, all inducement to obtain a good character is taken away. The effects have corresponded with the cause. Able-bodied men are found slovenly at their work, and dissolute in their hours of relaxation ; a father is negligent of his children : the children do not think it necessary to contribute to the support of their parents ; the employers and the employed are engaged in perpetual quarrels, and the pauper, always relieved, is always discontented ; crime advances with increasing boldness, and the parts of the county where this system prevails are, in spite of our gaols and our laws, filled with poachers and thieves.

‘ The evil of this state of things has often induced individuals to desire further means of punishing labourers who refuse or neglect to work, and the legislature has sometimes listened with favour to such proposals ; but we are persuaded, that any attempt to make the penalties of this kind more efficacious, would either be so repugnant to the national character as to be totally inoperative, or, if acted upon, would tend still further to degrade the labouring classes of the kingdom.’

After this authoritative exposition of the mischiefs arising from the allowance system, need we add, that its abolition is the imperative duty of the legislature ? We say abolition ; for nothing short of this can be of any material service. Labour is a commodity, and, as such, an article of commerce, and ought to be left, like every thing else, to find its own fair value in the market. It is not possible that the interference of the magistrate, in adjusting the terms of the contract of employment, can be otherwise than pernicious. His compulsory equalizations extinguish industry on the part of the poor, and prevent competition on the part of their employers. They give to the former the vices of slaves,



to the latter those of petty despots. And instead of wondering at the outrages and atrocities that have recently been perpetrated, our only wonder is, that they did not break out sooner, and have not been ten times more extensive and appalling.

But though a legislative fiat gave birth to the allowance system, such a fiat cannot extinguish it. Wherever it has been long acted upon there is a considerable excess of labourers, or a considerable number of labourers for whose services there is no effective demand. Suppose it were enacted, that henceforth no able-bodied labourer, engaged in any sort of regular industry, should be entitled to any allowance from the parish, and that all those who were not so employed should be separated from the others, and employed as paupers by the parish, *the allowance given to the latter would determine the wages of the former*. For, in the first place, if this allowance were higher than the wages paid to free labourers, the latter would immediately become so careless and indolent, that their employers would be obliged to dismiss them, or, which is the same thing, to hand them over to the pauper ‘gang;’ and, in the second place, supposing the allowance given to paupers to be less than the wages of labourers, the former would go to the farmers, and, by offering to work for them at less than they are paying, would sink the rate of wages to the level of the parish allowance. It is therefore quite impossible to establish a system of free competition in the adjustment of wages in parishes where there is an excess of labourers. The rate of wages in them must inevitably correspond with the allowance given to paupers; they are not places in which superior industry and ingenuity in the labouring class can obtain any reward; the wages and the performances of the ‘gangs’ at public works, are there the only standards by which to measure the wages and the work of others.

In order, therefore, to pave the way for the abolition of that helotism now so prevalent in England, means must be resorted to for the disposal of the labourers for whose services there is no real demand. Now, this, it is plain, can only be done in one of two ways; that is, either by placing them on unoccupied and uncultivated lands at home, or by removing them to the colonies. But the first of those modes would really occasion an aggravation of the mischief; we should be merely shifting the locality of the disease; exciting, after the manner of the fashionable quacks of the day, an ulcer in one part of the body politic, by way of curing an inflammation in another. If we locate the labourers at home, the lands assigned to them must, speaking generally, be of a decidedly inferior quality to the worst of those that are now cultivated; for, had it been otherwise, they would have been occupied in preference. They will, consequently, obtain less for their labour than the occupiers of the poorest lands obtain at present. We shall thus reach a lower step in the descending scale, and lay the foundation of a frightful increase of pauperism. It is, indeed, most probable that the condition of the persons located on such inferior lands would be so very bad, that, unless they were cooped up in Mr. Owen’s parallelograms, or reduced, like the Dutch pauper colonists, to a state of predial slavery, they would quit their situations, and return to beat down the wages of the ordinary labourers by their competition. These effects might not be manifested for a year or two; but we are to look at the ultimate and lasting, and not at the immediate and transitory, effects of such a system. And if we do this, and consider the disastrous influence that a forced cultivation of poor land



would have on the condition of the labourer, and the rate of profit, we must be satisfied that it would be in the last degree injurious.

Luckily, however, the other method for effecting the removal of the surplus labourers would have none of these disadvantages. Emigration would be beneficial to the emigrants themselves, by conveying them to countries where none but good lands are cultivated, where labour is in extensive demand, and where every industrious individual would have a reasonable prospect of attaining to a state of comfortable independence. It would be advantageous to the labourers who remained at home, by removing those paupers whose competition depresses their wages to the lowest limit, and by providing for the abolition of the allowance system; and it would be advantageous to all classes, by drying up the most copious source of internal commotion, and by extending and multiplying our commercial relations with other countries.

But it is unnecessary to dwell on the peculiar advantages of emigration. They have been rendered familiar to every one by the speeches and writings of Mr. Wilmot Horton. It is impossible, indeed, for any one who has attended to these subjects, to estimate too highly the services of that right honourable person. He has laboured for years with a zeal and perseverance that was proof against the hostility of avowed enemies, the sneers of witlings, and the indifference of the multitude. But the recent events have shown the solidity of his leading principles, and the correctness of his general views; and we hope that, before setting out for the Eastern world, he will have the gratification of seeing his opinions adopted and acted upon by Parliament.

There are no materials for correctly estimating the number of surplus labourers in England. We do not, however, believe that it is nearly so great as is commonly supposed. A small excess of agricultural labourers is sufficient to plunge the whole into the abyss of pauperism. The removal of 200,000 individuals from the agricultural counties would, we have little doubt, be quite sufficient to admit of the total abolition of the allowance system, and, at the same time, to raise wages to a proper level. But, whatever be the extent to which it might be proper to carry emigration, there is in the colonies far more than ample accommodation for all the emigrants that would be sent out. Canada, South Africa, and New Holland have all a boundless extent of fertile and unoccupied land. And while, by sending settlers to them, we relieve ourselves from that mass of pauperism by which we are now weighed down, we shall, at the same time, be laying the foundations of new empires, and diffusing the blessings of civilization, religion, and the arts.

But apart from all that has previously been stated, the events of the last few months have shown, that the existing evils in the condition of the poor can no longer be trifled with; the time for anodynes and soporifics has gone by, and recourse must be had to more powerful medicines. The *bellum servile*, so lately raging in the southern counties, has been, for the present, put down. But the embers are still alive, and may easily be fanned into a flame. Though the jails and the hulks have been crowded with the victims of offended justice, the peasantry have, on the whole, been successful. They have, in most cases, succeeded in forcing the farmers and occupiers to promise them very high wages. We doubt, however, whether it be possible, even were rents entirely remitted, for the farmers to fulfil their engagements.



If they do not, this breach of contract will infallibly lead to new commotions; and if they do, is it to be supposed that the labourers will rest satisfied with what they have already gained?

—— Nullus, semel ore receptus,  
Pollutas, patitur sanguis, mansuescere fauces.

Being all reduced to a state of pauperism, having no motive to distinguish themselves by superior diligence or good behaviour, their sole object must be to improve their victory, by forcing their employers, by dint of threats and violence, to augment their allowances, and to lighten their tasks. That such will be the progress of events, if no efforts be made to dissolve the union that now subsists among them, seems obvious. But to dissolve it we must deal with each labourer as with a responsible individual, influenced by the same motives that influence other men, instead of dealing with the species in the gross, according to scales and tables, as if they were mere brute machines, inaccessible to reason, and governable only by force. So monstrous a practice will certainly terminate, if it be left to run its course, in throwing down all that is high, without, however, raising any thing that is low. The security of property has been shaken, and much capital lost; and it is next to certain, that both will be destroyed, unless an end be put to the slavery of the working classes,—unless their wages be determined on the principle of competition, and industry, forethought, and good conduct be again rendered the only means by which labourers can hope to improve their condition.

We, therefore, cordially approve of the principle, and of most of the details, of the bill introduced by the present Ministry for facilitating emigration. It might safely, as we think, have gone a good deal farther; but perhaps it was best to begin with a measure like the present. The bill authorizes the appointment of a commission by the crown, who are to have power to contract, either with vestries or individuals, for the removal of paupers, chargeable or likely to become chargeable, to the colonies, under such regulations as government may think fit, from time to time, to issue. The sums advanced, in the first instance, by government, are to be repaid by an assessment upon all property liable to contribute to the poor's rate, at the rate of 10 per cent. per annum, till the whole be extinguished. The powers vested in the commissioners and lords of the treasury by the act are limited to the term of five years.

The expense of maintaining a man, his wife, and two or three children, as paupers in the southern counties, may be set down, at a rough average, at from 22*l.* to 26*l.* a-year. It is difficult, among the conflicting accounts that are in circulation, to estimate the probable expense of conveying such a family to Canada, and establishing them there; but taking the *largest* estimate, it could not exceed 80*l.*; so that the parish or landlord, bound to support such a family, would be a very great gainer by contracting for their removal. To talk, as some honourable gentlemen have done, from whom we expected better things, of emigration diminishing the capital of the country to the same extent that it diminished population, is a good deal worse than absurd. About a *sixth*, or, at the very outside, a *fifth* part of the capital will suffice to establish a pauper family in Canada that is required for its support at home. It may be said, perhaps, that we must deduct from the expense of keeping such a family the value of their labour. But

those who consider the mischievous influence which the maintenance of able-bodied labourers in a state of pauperism has on the industry of others, will be ready to acknowledge that far more work would be done by the remaining labourers, were the paupers removed, than is at present executed by the whole: and that, consequently, nothing ought to be set down to the credit of the work performed by the paupers. It must also be borne in mind, that if no efforts be made to subvert the present allowance system, by providing an outlet for the surplus labourers, the charge on their account will, from the natural progress of the evil, go on regularly increasing, until it swallows up the whole net revenue of the country. Nothing, therefore, can be a greater mistake, than to suppose, that those who consent to make an advance for the removal of paupers, are making a sacrifice to get rid of an accidental and transitory evil. The fact is, they are making a comparatively small sacrifice, to rid themselves of an evil which is deeply seated, which is rapidly spreading, and which, if it be not effectually counteracted, will, at no distant period, sink all classes below the level of that which is now lowest.

It is very properly provided in the bill, that no one is to be sent abroad as an emigrant, except with his own express consent; and that no sort of force or undue persuasion is to be used to induce any one to give such consent. But if the bill should pass into a law, parishes will not do their duty by the public, or by themselves, if they do not materially lessen the present inducements to continue at home as paupers. It was stipulated in some parts of the country, during the late disturbances, that *all* labourers, however slothful or negligent, and whether employed by the parish or not, should receive 2s. 3d. a-day at an average of the year! In the event, however, of the present bill passing, the parishes that have entered into this agreement may fairly recede from it. They are entitled to tell the labourers, that, when it was made, there was no outlet for the surplus labourers; that such an outlet is now provided; that the parish is willing to defray the expense of their conveyance to countries where land is cheap and labour dear, and where, instead of getting two, they may, if they choose to be industrious, realize four or five shillings a-day; and that, having given them this option, they have resolved upon reducing the allowance to one shilling a-day.

An end ought, then, also to be put to the present practice of making a distinction between the allowances to single and married men. The choice of going to the colonies deprives the latter of any just cause of complaint they might have had, had the allowances been equalized without this option being offered. The total abolition of this distinction is absolutely indispensable to the abolition of the allowance system, and the growth of provident habits among the poor.

The clamour that has been raised against the bill for ‘Facilitating Emigration,’ as if it were, ‘A bill for the Transportation of Men because of Poverty,’ will not, we trust, make any serious impression. The bill is eminently calculated, were it passed into a law, to promote the interests of the poor; and they are not their friends, but their worst enemies, who labour to procure its rejection. We disclaim all participation in the tender mercies of those who would persuade the labourer to continue in a state of slavery and destitution in England, when he may become free and prosperous in the colonies. If such



persons be honest, their notions of humanity are about as singular as those of the chemist who mistook salt for sugar : if they be dishonest, and assume the cant of charity, and so forth, merely as a cloak to mask their designs, knavery cannot well go farther.

We recommend the following paragraph, which is not more striking than true, from the *Sydney Gazette*, to the attention of those who honestly think that emigration would be injurious to the poor :

‘ Here, then, is a country, prepared to our very hands, for all the purposes of civilized life. While England is groaning under a population for which she cannot provide bread, here is an unmeasured extent of rich soil, that has lain fallow for ages, and to which the starving thousands of the north are beckoned to repair. The great want of England is employment; the great want of New South Wales is labour. England has more mouths than food; New South Wales has more food than mouths. England would be the gainer by lopping off one of her superfluous millions; New South Wales would be the gainer by their being planted upon her ample plains. In England, the lower orders are perishing for lack of bread; in New South Wales, they are, like Jeshurun, “waxing fat and kicking” amid superabundance. In England, the master is distracted to find work for his men; in New South Wales, he is distracted to find men for his work. In England, the capitalist is glad to make his three per cent; in New South Wales, he looks for twenty. In England, capital is a mere drug — the lender can scarcely find a borrower, the borrower can scarcely repay the lender; in New South Wales, capital is the one thing needful — it would bring a goodly interest to the lender, and would make the fortune of the borrower.

‘ Then, let the capitalist wend his way hither, and his one talent will soon gain ten, and his ten, twenty. Let the labouring pauper come hither, and if he can do nothing in the world but dig, he shall be welcome to THREE AND TWENTY SHILLINGS A-WEEK, and shall feast on fat beef and mutton at a penny or twopence a-pound. Let the workhouses and gaols disgorge their squalid inmates upon our shores, and the heart-broken pauper, and the abandoned profligate, shall be converted into honest, and industrious, and jolly-faced yeomen.’— (*Sydney Gazette*, 22d May, 1830.)

It was contended, in the debate on the introduction of the bill, that the increase of population may, at present, be estimated at 200,000 a-year; and that, unless emigration were carried to this extent, it could do no good. But, with all due respect, we take leave to say, that nothing can be more entirely unfounded than this statement. Capital and population are, at present, advancing in certain ratios; and the object in proposing emigration, is not to hinder any increase of population, but to lessen the ratio of its increase, so that the balance may be made to incline in favour of capital. An emigration of 20,000 or 30,000 a-year may be quite sufficient for this purpose; and would, there can be no doubt, in a very few years, materially improve the condition of the labourers.

Besides providing an outlet for the existing surplus labourers, measures ought to be taken to check their undue increase in future, by removing every direct encouragement to improvidence. For this purpose a change should be made in the law of settlement, and in the present practice of assessing houses and cottages to the poor’s rate.



The present law of settlement is, to the last degree, complicated; and cases are perpetually occurring, as to which the opinions of the ablest lawyers differ entirely. This ambiguity has led to a frightful mass of litigation; so much so, that the sums annually expended, in England and Wales, upon lawsuits as to questions of settlement, &c., exceed the whole expense of the established Church of Scotland! Now, it may easily be shown, that almost the whole of this enormous expense may be saved, and various very advantageous results secured, by merely declaring, that no settlement shall be obtained otherwise than by birth; or that the place where an individual is born shall be held to be the place of his settlement. At present, settlements may be obtained by apprenticeship, service, the occupancy of lands or houses of a certain value, &c.; and the desire to prevent a stranger, coming to reside in a parish, from obtaining a settlement by these means, has led to various practices productive of much inconvenience, and of endless litigation. But, were the place of one's birth declared to be the place of his settlement, all these inconveniences would be avoided; at the same time that landlords and occupiers would have the strongest motives to exert themselves to check those improvident unions which have led to so much mischief. It is not easy to see what reasonable objection could be made to the proposed change: and we look forward to its favourable consideration by Parliament.

Besides amending the law with respect to settlements, something decisive ought to be done to check the practice of building cottages for paupers. Various plans have been proposed for this purpose. Some have suggested that the proprietor of the ground on which a cottage is built, should be made responsible for its occupiers; and that if they become chargeable, he should be bound to provide for them. Perhaps, however, the object in view may be secured by directly assessing cottages to the poor's rate; making the assessment, in all cases, fall upon the landlord, and not upon the occupier. At present, it often happens that the public economy of a parish, otherwise in a very healthy condition, is vitiated by the proprietor of a few acres, speculating upon turning them to good account, by covering them with cottages, that ultimately become the receptacles of paupers; the support of such paupers falling almost entirely on others, the rate affecting the small patch of land upon which the cottages are built being quite inconsiderable. This is a flagrant abuse; and one the influence of which is most extensive, and calls loudly for amendment. Nothing, indeed, has done more to multiply the number of paupers, than the encouragement that has thus been held out to the improper increase of cottages; and there is nothing, with the exception of the abolition of the allowance system, that would do more to arrest the progress of pauperism, than the enactment of a law that should render such sort of speculations as unprofitable to the speculators as they are injurious to the public.

The evils arising from the temptations at present held out to the erection of cottages were forcibly alluded to by Mr. Hodges in his evidence already quoted. 'Perhaps,' said this very intelligent gentleman, 'I am taking a liberty in adverting to what I stated the other day; but without an attention to the fact there disclosed, *of the prodigious increase of cottages of late years, all other regulations will be nugatory*: and I cannot forbear urging again, that this [a plan of emigration] or any similar measure, having for its object the relief of



‘ parishes from their over-population, must of necessity become perfectly useless, unless the act of Parliament contain some regulations with regard to the erecting and maintaining of cottages; this may be done in parishes taking the benefit of such act, either by rating the proprietors of them, and not the occupiers, — or, perhaps, it might be thought advisable even to rate the proprietor of any cottage whose inhabitants might become chargeable, for want of regular employ, to the maintenance of that pauper to the full amount of the rent agreed to be paid to his landlord by the said pauper.’ — ‘ It is notorious,’ said Mr. Hodges, in answer to another question, ‘ that *almost numberless cottages have of late years been built by persons speculating on the parish rates for their rents.*’ — (*First Emig. Rep. Evid.* p. 185.)

We may remark, by the way, that among a certain class of speculators as to the causes of the late disturbances, much stress has been laid upon the disappearance of small farms, and the conversion of cottagers into mere labourers. But we are satisfied that these circumstances have been as innocent of the disturbances, and of the depressed condition of the labourers, as they are of the Parisian revolution. We have the means, and propose taking an early opportunity of showing, that the labourers of all those counties where the allowance system has not been introduced, are, speaking generally, at this moment in a decidedly better condition than they have ever previously been in. They are better fed — that is, they eat more butcher meat, and use more wheat — better clothed, better lodged, and healthier, than at any former period of our history. And, what is still more conclusive as to the groundlessness of the statements in question, Durham, Northumberland, the Lothians, and all those counties where farms are largest, are those where the condition of the peasantry is most prosperous. Let us, therefore, hear no more of this senseless cry against large farms and ‘ gentlemen farmers.’ We are ready to admit, and have, indeed, always contended, that the condition of cottagers is materially improved by attaching a moderate-sized garden to their cottages; but no landlord or farmer, who has a just sense of what is either for his own advantage, or for that of his workmen, will suffer them to possess more land. This is the practice of Northumberland and the Lothians, and where else are the peasantry so comfortable?

Next to the helotism occasioned by the abuse of the poor laws, we are inclined to think that the Game-Laws have had the greatest influence in degrading the peasantry, and in spreading irritation amongst them. The southern counties have been peculiarly afflicted with this scourge; and we have been assured, by those who have the best means of knowing, that the oppressions perpetrated for offences against these laws have been the main cause of the late fires. They have long been rankling in the minds of the peasantry, and the desire to avenge them might, perhaps, have been suppressed for some time longer, but for the excitement caused by the late events on the continent. If we would prevent the recurrence of still darker atrocities, the existing game laws must be totally abolished. It is not easy, indeed, to imagine for what other purpose this detestable code could be so long kept up, except to fill the country with bloodshed and crime. The law prohibiting the sale of game, ought to have been entitled ‘ A Law for the encouragement of Murder and Robbery.’ More than half the rich men of the empire have no land, and no qualification entitling them to kill game; and

as the legislature, in its wisdom, would not allow them to be supplied with this luxury in a legitimate way, they were forced to buy it, though at a higher price, from poachers. In vain has statute after statute, and penalty after penalty, been added to this barbarous code. Instead of putting down poaching, they have rendered it universal; and have produced a degree of irritation and disgust, and a yearning after vengeance among the peasantry, that has been and may be turned to the most dangerous purposes.

We therefore hail with infinite satisfaction the bill introduced by Lord Althorpe, for legalizing the sale of game, and for abolishing all those regulations, devised by the Nimrods of former days, as to qualifications. This bill declares that game shall be the property of the individual on whose land it is found; and that every individual, on taking out a license, costing £6 a-year, shall be entitled to kill game on his obtaining leave from the proprietors of the lands over which he shoots. Dealers in game are to take out a license. Poachers taken at night with guns, dogs, &c., for the killing of game, are, for the first offence, to be imprisoned and kept to hard labour for any period not more than *four* months; for a second offence, the party may be imprisoned and kept to hard labour for *eight* months; and every subsequent offence is to be deemed a misdemeanor, and the party offending may be imprisoned at the discretion of the court, and kept to hard labour for any period not exceeding *two years*.

Should this bill pass into a law, it will confer the greatest benefit upon the public. It is one of the first instances in which an attempt to amend the game-laws has been bottomed on the principles of common sense, and will do much to rid them of their enormities. At the same time, we must say, that the proposed penalties on poaching seem to be a great deal too rigorous. It is all very well for the legislature to declare that animals *feræ naturæ* are property; but mankind will never be brought to believe that the right of property is as much violated by killing a partridge or a hare, which may, by a volition of its own, become the property of twenty individuals in a day, as it is by killing a turkey or a sheep; or that the former offence should be visited with the same penalties as the latter. We, however, agree in opinion with those who consider that the practice of breeding and preserving vast quantities of game in particular places, for the purpose of a *battue*, that is, for enabling the lame and the blind to rival the shooting feats of Mr. Osbaldiston and Lord Kennedy, is the principal cause of poaching. We do not say that this is a practice that ought to be directly suppressed by a legislative enactment; but certainly we know of none that is less entitled to protection. This accumulation of game creates an overpowering temptation to poaching; and so long as preserves are multiplied all over the country, — as over-fed pheasants and half-fed cottagers are brought into contact, — so long will the latter prey upon the former. Surely, then, there can be neither hardship nor injustice in laying it down, that those who choose to regale themselves with a luxury of this sort, — who choose to indulge in a sport that tempts their fellow-men to commit what the law has declared to be a crime of no common dye, — should be made to pay smartly for the gratification of their tastes. And we would, therefore, beg to suggest, that all individuals employed, for whatever period, as gamekeepers or as keepers of preserves, whether by night or by day, should be charged



with an excise license of at least 12*l.* 12*s.* or 15*l.* 15*s.* a-year. This would not entirely prevent the formation of preserves, but it would confine the practice within reasonable bounds, and render it infinitely less noxious than at present.

But supposing that the present unemployed labourers were conveyed to the colonies, that the abuses of the poor-laws were corrected, and the game-laws abolished or reconciled to the obvious principles of justice and common sense, still we should not have done enough to secure the public tranquillity. The situation of Great Britain is at present without any parallel in the history of the world, and is pregnant with many difficulties. The very large proportion of our population depending for subsistence on manufactures and commerce, and liable, consequently, to sudden and severe reverses, is one of those circumstances that merits the most anxious attention of statesmen. No one can doubt that it is the bounden duty of government to do every thing that is possible to diminish the chances of commercial distress, by giving freedom to the merchant, and especially by abolishing the existing restrictions on the corn trade — restrictions which multiply the chances of famine at the same time that they injure the agriculturist. But, do what we will, the manufacturing population must always be liable to be thrown out of employment, and deprived of their accustomed means of support, by changes of fashion or policy abroad and at home. Surely, then, it is of the utmost importance that they should be taught to meet such trying vicissitudes, when they do occur, with patient fortitude, and without aggravating the pressure of calamity by any rash proceedings of their own. The outrages of the agriculturists may be repressed and put down with comparatively little difficulty; but were such a spirit to arise among the manufacturers of Lancashire as has recently prevailed in the southern counties, national bankruptcy and ruin would be the result. Let no man think that, if the spirit of discontent and outrage should once insinuate itself into the manufacturing districts, it could be suppressed or kept down by force. So mighty a mass cannot be dragooned and coerced into obedience. If we would prolong that *security* which has been the principal foundation of our prosperity, we must show the labourers that they are interested in its support; and that whatever has any tendency to weaken it, is even more injurious to them than to any other class. For this reason, we are deeply impressed with the conviction that Parliament ought to lose no time in setting about the organization of a really useful system of public education. *The safety of the empire depends wholly on the conduct of the multitude*; and such being the case, can any one doubt the paramount importance of the diffusion of sound instruction?

This is not a subject that ought any longer to be trifled with, or left to individuals or societies. The astounding exhibition of ignorance made at the late trials for rioting, shows how wretchedly the agricultural population is educated. A larger proportion of the manufacturing population can read and write; but a knowledge of these arts is not enough. Besides being instructed in them, and in the duties and obligations enjoined by religion and morality, the poor ought to be made acquainted with those circumstances which principally determine their condition in life. They ought, above all, to be instructed in the plain and elementary doctrines respecting population and wages; in

the advantages derived from the institution of private property, and the introduction and improvement of machinery; and in the causes which give rise to that gradation of ranks, and inequality of fortunes, that are as natural to society as heat to fire and cold to ice. The interests of the poor are identified with the support of all those great principles, the maintenance of which is essential to the welfare of the other classes. And, were they made fully aware that such is the fact, it would be a contradiction and an absurdity to suppose, that the securities for peace and good order would not be immeasurably increased. Those revolutionary and anti-social doctrines, now so copiously distributed, would be rejected at once by an instructed population. But it is not easy to estimate what may be their influence in a period of political excitement and public distress, when addressed to those whose education has been entirely neglected, and whose judgment is, in consequence, guided by prejudice, and not by principle.

We hope that the attention of Parliament and the country will be speedily called to this most important subject. The foundations of real security are beyond and above the law. They depend on the knowledge and morals of the people. Nor can there be a doubt, that rulers who neglect to provide their subjects with the means of procuring cheap and really useful instruction, are justly chargeable with the neglect of a most essential duty.

We have not chosen to encumber this article with any remarks as to the condition of the Irish poor, and their immigration into England. These are subjects that require, and must have, a separate discussion.

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### ABOLITION OF THE CORN LAWS.\*

IN whatever point of view the question with respect to the Abolition or modification of the existing Corn Laws may be considered — whether as affecting the interests of the landlords and farmers, or those of the manufacturing, mercantile, and monied classes — it must be allowed to be one of the very highest importance. We do not, certainly, think that it is in itself a difficult question; but it is one with respect to which the greatest misapprehensions are universally entertained. The deceitful statements and declamatory harangues of the agricultural orators on the one hand, and the intemperate invectives of many of their opponents on the other, have given rise to the most erroneous and contradictory opinions with respect to the practical bearing and real operation of the existing Corn Laws, and the effects that would follow from their repeal; and have rendered a patient investigation of facts, and a recurrence to first principles, indispensable to clear away the obscurity in which the question has been studiously involved, and to enable us to arrive at a sound conclusion with respect to it.

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\* Mr. Jacob's Report on the Trade in Corn, and on the Agriculture of the North of Europe. Printed by order of the House of Commons 14th March 1826. — Vol. xliv. page 319. September, 1826.



In order to simplify our investigation, we shall begin by endeavouring to estimate the total annual consumption of the different kinds of grain in the British empire; and, having done this, we shall next endeavour to ascertain the quantity of grain that would most probably be imported into Great Britain in ordinary years, and the price at which it could be sold in the event of the ports being thrown open. If we succeed in determining these points with tolerable accuracy, it will be easy to deduce from them an estimate of *the effect* that a repeal of the Corn Laws would have in reducing the price of raw produce, and in throwing inferior land out of tillage. The facts of the case being thus brought before the reader, we shall next apply ourselves to unfold the consequences which they involve, and to exhibit the principles that ought to be kept in view, in abolishing or modifying the existing restrictions. We shall endeavour to be as brief as possible; but the importance of the subject, and the multiplicity of details which it involves, render a pretty large discussion absolutely unavoidable.

Attempts have sometimes been made to compute the quantity of corn raised in a country, from calculations founded on the number of acres in tillage, and on the average produce *per acre*. But it is plain that no accurate estimate can ever be framed of the extent of land under cultivation. It is perpetually changing from year to year; and the amount of produce varies not only with the differences of seasons, but also with every improvement of agriculture. This method, therefore, is now rarely resorted to; and the growth of corn is generally estimated from the *consumption*. The conclusions deduced from this criterion must indeed be subject to error, as well from variations in the consumption, occasioned by variations in the price of corn, as from the varying extent to which other food is used. But supposing the prices of corn to be reduced to an average, if the consumption of a considerable number of persons of all ranks and orders, and of all ages and sexes, were accurately determined, we should be able, supposing the census of the population to be nearly correct, to make a very close approximation to the total consumption of the country. Mr. Charles Smith, the well-informed and intelligent author of the Tracts on the Corn Trade, made many curious investigations with a view to discover the mean annual consumption of corn; and, reducing it to the *standard of wheat*, he found it to be at the rate of about *a quarter for each individual*, young and old. This estimate has been confirmed by a variety of subsequent researches; and, among others, by inquiries made during the scarcity of 1795 and 1796 by the Magistrates of Suffolk, in 42 different parishes, in the view of ascertaining the average consumption of each family, which they found to correspond very closely with Mr. Smith's estimate. It is also worthy of remark, that M. Paucton, the intelligent author of the *Metrologie*, estimates the mean annual average consumption in France, when reduced to the standard of wheat, at about ten bushels for each individual; and as the French consume considerably more bread, and less animal food, than the English, this estimate affords a strong proof of the correctness of that of Mr. Smith.

Having taken the population of England and Wales, in 1765, at 6,000,000, Mr. Smith reckoned the consumers of each kind of grain, the quantity consumed by each individual, and hence the whole consumed by man, to be as follows:

Estimated Population of England and Wales.	Average Consumption of each Person.		Consumed by Man.
3,750,000 consumers of wheat, at 1 quarter each	-	-	3,750,000 qrs.
739,000 do. of barley, at $1\frac{3}{8}$ do.	-	-	1,016,125
888,000 do. of rye, at $1\frac{1}{8}$ do.	-	-	999,000
623,000 do. of oats, at $2\frac{7}{8}$ do.	-	-	1,791,225
Consumed by man			7,556,350
In addition to this, Mr. Smith estimated the wheat			
distilled, made into starch, &c.	-	-	90,000
Barley used in malting, &c.	-	-	3,417,000
Rye for hogs, &c.	-	-	31,000
Oats for horses, &c.	-	-	2,461,500
Total of home consumption			13,555,850
Add excess of exports over imports			398,624
			13,954,474
Add seed, <i>one-tenth</i>			1,395,447
Total growth of all kinds of grain in England and			
Wales, in 1765	-	-	15,349,921

This estimate, it will be observed, does not include either Scotland or Ireland; and later inquiries have rendered it probable that Mr. Smith had underrated the population of England and Wales by nearly one million. The most eminent agriculturists seem also to be of opinion, that the allowance for seed ought to be stated as high as a *seventh*.

Mr. Chalmers, availing himself of the information respecting the numbers of the people, furnished under the Population Act of 1800, estimated the total consumption of all the different kinds of grain in Great Britain at that epoch, at 27,185,300 quarters, whereof wheat constituted 7,676,100 quarters. The crops of 1800 and of 1801 being unusually deficient, the importation in these years was proportionally great; but excluding these scarcities, the total average excess of all sorts of grain imported from Ireland and foreign countries into Great Britain over the exports had previously amounted to about one million of quarters, which, deducted from 27,185,300, leaves 26,185,300, to which, if we add *one-seventh* as seed, we shall have 29,925,057 quarters as the average growth of Great Britain in 1800.

The population of Ireland, as ascertained by the census of 1821, amounts to very near seven millions. The greatest portion of its inhabitants are, it is true, supported by the potato, and seldom or never taste bread; but we shall probably be within the mark if we estimate the number of those fed on the various kinds of corn at three millions, and the average quantity of the different sorts of grain consumed by each individual at two quarters. This would give 6,000,000 of quarters as the total consumption of Ireland.

But the population of Great Britain has increased since 1800 from 10,942,000 to 14,379,000; and both Mr. Western and Dr. Colquhoun concurred in estimating the average consumption of the whole empire in 1812 and 1814 at about thirty-five millions of quarters.



The following is Dr. Colquhoun’s estimate :—

Species of Grain.	Estimated Average of the Population of Great Britain and Ireland.	Each Person averaged.	Consumed by Man.	Consumed by Animals.	Used in Beer and Spirits.	Used in various Manufactures.	Total of Quarters.
		Qrs.	Qrs.	Qrs.	Qrs.	Qrs.	
Wheat -	9,000,000	1	9,000,000			170,000	9,170,000
Barley -	1,500,000	1 $\frac{1}{4}$	1,875,000	210,000	4,250,000		6,335,000
Oats -	4,500,000	1 $\frac{3}{4}$	6,750,000	10,200,000			16,950,000
Rye -	500,000	1 $\frac{1}{4}$	625,000	59,000		1,000	685,000
Beans and Peas -	500,000	1	500,000	1,360,000			1,860,000
Totals	16,000,000		18,750,000	11,829,000	4,250,000	171,000	35,000,000

Dr. Colquhoun has made no allowance for seed in this estimate ; and there can be no doubt that he has underrated the consumption of oats by at least one-half quarter in the consumption of each of the 4,500,000 individuals he supposes fed on them, or by 2,250,000 quarters. Adding, therefore, to Dr. Colquhoun’s estimate five and a half millions of quarters for seed, and 2,250,000 quarters for the deficiency of oats, it will bring it to 42,750,000 quarters. And taking the increase of population since 1813 into account, it does not appear to us that the annual average consumption of the different kinds of grain in the United Kingdom can now be estimated at less than FORTY-TWO millions of quarters, exclusive of seed, and at FORTY-EIGHT millions when it is included. Assuming this estimate to be correct, and the proportion of wheat to amount to *twelve* millions of quarters, the progressive consumption will be as follows :—

*Consumption of Wheat and other Grain in the United Kingdom, in a year, six months, a month, a week, &c.*

	Wheat.	Other Grain.	Total.
	Qrs.	Qrs.	Qrs.
A Year, - -	12,000,000	36,000,000	48,000,000
Six Months, - -	6,000,000	18,000,000	24,000,000
Three Months, - -	3,000,000	9,000,000	12,000,000
Six Weeks, - -	1,500,000	4,500,000	6,000,000
One Month, - -	1,000,000	3,000,000	4,000,000
Two Weeks, - -	500,000	1,500,000	2,000,000
One Week, - -	250,000	750,000	1,000,000
One Day, - -	35,714	107,143	142,857

Several very important conclusions may be drawn from this Table. And, in the first place, it shows, that the largest importations that have ever taken place bear but a very small proportion to the total consumption of the country. It appears, from papers printed by order of the House of Commons, that the total imports of wheat from all parts of the world, from the year 1800 to 1820 both inclusive, amounted to only 12,577,029 quarters, giving an annual average of no more than

589,906 quarters. It will also be observed, that the *average price* of that period was as high as 84s. 6d., and that it included *five* years of decided scarcity, and when the home prices rose to a most oppressive height. We subjoin a note of these years, with the prices and *the total quantities of ALL SORTS of grain* imported into Great Britain from foreign countries.

1800	-	-	110s. 5d.	-	-	2,135,597 quarters.
1801	-	-	115s. 11d.	-	-	2,405,544
1810	-	-	103s.	-	-	1,688,268
1817	-	-	94s.	-	-	1,797,181
1818	-	-	83s. 8d.	-	-	3,522,729

Now it appears from this *official* statement, that notwithstanding the ruinously high prices of these years, and although every corner of the commercial world was ransacked with a view to the supply of the British markets, such is the vastness of our demand, that the total quantity imported rarely amounted to *one-twentieth* part of the entire consumption; and in 1818, which was the year of greatest importation, the foreign corn imported did not amount to *one thirteenth* part of the required supply, or to *four weeks consumption*! This is, of itself, sufficient to show that nothing can be more perfectly futile than the fears and apprehensions entertained by the agriculturists with respect to the excessive importations of foreign corn that would take place were our ports thrown open.

In 1801 and 1802, when the price of wheat in England amounted upon an average to 92s. 10d. per quarter, and in Dantzic to 67s. 4d. per do., the quantity of wheat exported from the latter amounted to only 945,199 quarters, giving an annual average of 472,599 quarters, of which about three-fourths were sent to England. And to furnish this trifling quantity — for it is but trifling when compared to the total consumption of this country — Mr. Jacob mentions, that wheat was brought by land-carriage to the Vistula from the farthest parts of Galicia, and even from Brun and Olmutz in Moravia, at an expense which could not possibly have been defrayed, except by the enormous prices which it then bore in the English market. (*Report*, p. 52.) We subjoin an account, furnished by Mr. Jacob, of the total annual average quantity of wheat and rye exported from Dantzic in periods of twenty-five years each, for the 166 years ending with 1825.

Years.	Wheat.	Rye.	Total.
	Qrs.	Qrs.	Qrs.
1651 to 1675	81,775	225,312	307,087
1676 — 1700	124,897	227,482	352,379
1701 — 1725	59,795	170,100	229,895
1726 — 1750	80,624	119,771	200,395
1751 — 1775	141,080	208,140	349,220
1776 — 1800	150,299	103,045	253,344
1801 — 1825	200,330	67,511	267,841

‘ The average of the whole period,’ Mr. Jacob observes, ‘ gives an annual quantity of wheat and rye, of 279,794 quarters (hardly equi-



‘ valent to *two days*’ supply of the British market); and this surplus ‘ may be fairly considered as the nearest approach that can be ‘ made, with existing materials, to what is the usual excess of the produce of bread corn above the consumption of the inhabitants, when ‘ no extraordinary circumstances occur to excite or check cultivation.’ (*Report*, p. 49.)

It appears from the official accounts furnished by Mr. Gibson, the very intelligent consul at Dantzic, that the exports of wheat from Riga for the *nine* years beginning with 1816 and ending with 1824, amounted, on an annual average, to 2,533 lasts, or to 25,330 quarters: and it further appears, from official accounts furnished by the same gentleman, that the exports of wheat from Elbing amount, on an average of the last twelve years, to 21,381 quarters.

It results from these statements, that the total exports of wheat from the three great ports of Dantzic, Riga, and Elbing, amount, on an average of the last ten or twelve years, to less than 250,000 quarters: and, estimating the total average exports from the other ports of the Baltic at 50,000 quarters, which we believe considerably exceeds the mark, it will be seen that the total exports from all the ports on that sea do not, in ordinary years, amount to 300,000 quarters; which, supposing it were all to come to England, would not be more than equal to eight days’ supply of our consumption of wheat, or to four days’ supply of our consumption of all sorts of grain!

It is contended, however, that in the event of the freedom of the corn trade being established, foreigners would regularly calculate upon the demand of Great Britain; and that the extraordinary fertility of the Polish, Prussian, and Russian provinces bordering on the Baltic, would enable their agriculturists to raise a vastly-increased quantity of grain, and, by glutting our market with unlimited supplies, to drive all our inferior and middling land out of tillage. But the fact that our ports were open, with scarcely any interruption, from 1795 to 1815, and that, notwithstanding the extraordinary stimulus to importation afforded by the high prices of that period, our imports rarely amounted to *one-twentieth* part of our entire consumption, show that the apprehensions of excessive importation are altogether imaginary. But in order still better to clear up this point, ministers determined to send a gentleman to travel through the countries in question, to collect authentic information with respect to their present state, and their capabilities for producing an increased supply of corn. Much, it is obvious, of the success of this plan was to depend on the qualifications of the individual selected for the mission; and though we are not sure that it might not have been advisable to have associated two or more persons in so important an expedition, we are persuaded that no one individual could have been found better qualified to undertake it than Mr. Jacob — the gentleman sent out. Mr. Jacob had already visited the North of Germany and Prussia; and besides being advantageously known by the attention he had paid to statistical inquiries, he possessed a competent knowledge of the practical details of agriculture. But the Report produced by him, since his return, is the best proof of his fitness for the mission. It is in every respect a most valuable document. Mr. Jacob had access to all the best sources of information; and he has industriously availed himself of them, to furnish the most accurate and minute details with respect to the natural fertility of the soil, the agricultural economy, and the actual condition of the rural population



of Prussia and the lower provinces of Poland. The facts and observations he has collected and detailed, show that the capabilities of the Northern provinces of Poland, and generally of the whole North of Europe, for furnishing an increased supply of corn, are vastly less than had been commonly supposed. Agricultural science is, almost everywhere, at the very lowest ebb; the soil of the provinces contiguous to the sea is thin, sandy, and unproductive; and though the more distant Polish provinces of Massovia, Gallicia, and Volhynia, are comparatively fertile, and might easily be made to furnish a considerable supply of corn for exportation, their great distance from the sea, and the expense attending the carriage of their produce to Dantzic, amounting on an average to from 12s. to 18s. a quarter, oppose almost insuperable obstacles to their ever becoming great exporting countries.

In 1817 and 1818, when our ports were open, and the average price of wheat in Great Britain was as high as 88s. 10d., the total quantity of that grain exported from Dantzic amounted to only 504,934 quarters, being at the rate of 252,467 quarters a year. And had the price of corn in England been so low as 60s., it is doubtful whether the exports in these years would have amounted to 120,000 quarters. Nothing, therefore, can be more completely without foundation, than the notions so generally prevalent with respect to the excessive importations that would take place, under a system of free trade, from the North of Europe. There is no reason to think, were our prices steady at about 50s. or 55s., that we should be able to import above 550,000, or at most 600,000 quarters of all sorts of grain from the whole of Northern Europe. But on the extravagant supposition that we imported double that quantity, or 1,200,000 quarters, it would, after all, amount to only *ONE-FORTIETH part of our entire consumption*. And as our greatest supplies must always be derived from that quarter, it is immediately seen how ridiculous it is to suppose that the perfect freedom of the corn trade could ever have the effect of rendering us in any considerable degree dependent on foreign supplies.

Assuming, however, that our imports should, under a system of free trade, regularly amount to 3,500,000 quarters, as in 1818, when the price was as high as 83s. 8d., still it is obvious that, even on this exaggerated hypothesis, they would fall short of *one thirteenth* part of the required supply; and, therefore, instead of its being true, as the agriculturists affirm, that a *third* or a *fourth* part of the land now under tillage in this country would be converted into pasture in the event of the ports being thrown open, not more than a *thirteenth* part of our cultivated land could be in any degree affected.

The misapprehensions that are universally entertained with respect to the *price* at which foreign corn could be imported, were our restrictive regulations abolished, are, if possible, still more extraordinary than those entertained with respect to the quantities that could be imported. One would be disposed to conclude, were they to read only the paragraphs put forth by the more zealous advocates of the agricultural or manufacturing interests — for however much these gentlemen may differ in every thing else they agree in this — that were our Corn Laws abolished, we might obtain unlimited supplies of wheat for 20s. or at most 30s. a quarter! The only thing we have to regret is, that these statements should have no better foundation than the hopes or fears of those by whom they are put forth: for



whatever Sir Thomas Lethbridge or Mr. Holme Sumner may say to the contrary, it would be a prodigious advantage to be able to obtain sufficient supplies of food at such a reduced rate. But, unfortunately, the perfect freedom of the corn trade would procure us no such boon. It would indeed be a great and signal benefit, because it would secure us perpetual plenty, and would present an insuperable obstacle to any very oppressive rise of prices in future; but it would not depress them to *one half* the extent commonly supposed. The stories that are everywhere current with respect to the extreme cheapness of foreign corn are not really entitled to more credit than those in the Arabian Nights. And though our ports were opened, without duties or restrictions of any sort, we are bold to say, that not one tittle of evidence has been produced to warrant the conclusion, that foreign corn could be sold in our markets, in ordinary years, for less than from 48s. to 55s. a quarter.

Dantzic is, of all the Continental markets, that from which we must always derive the greatest supply of corn. But we have already seen, that in 1817 and 1818, with a price of no less than 88s. 10d., we were not able to import more than 252,467 quarters a year! This is certainly very unlike the current reports about the excessive abundance and cheapness of Polish wheat; but, lest it should be said that, owing to our ports being shut in 1815 and 1816, the Poles, not calculating upon our demand, had no corn raised for our markets, we shall endeavour to ascertain what may be considered as the lowest price for which any considerable quantity of wheat, as 100,000 or 200,000 quarters, might, in ordinary years, be obtained for from Dantzic. It is not, of course, possible to determine such a point with perfect accuracy; but the statements we are now about to lay before our readers are sufficiently precise for all practical purposes.

The first authority to which we shall refer is that of Mr. Oddy, the intelligent author of the work on European Commerce, published in 1805. Mr. Oddy visited Dantzic, and most other ports on the Baltic; and, having carefully inquired into the facts of the case, he states, that 32s. 6d. a quarter is *the lowest price* for which any considerable supply of wheat could be purchased at Dantzic. (p. 250.) In like manner, Mr. Solly, an extensive corn merchant, who was formerly in business at Dantzic, stated to the Agricultural Committee of the House of Commons in 1821, that when there was *no direct foreign demand*, a quarter of wheat might be put on board ship at Dantzic for about 35s.; that the freight to London would be about 4s. 6d. or 5s. more; and that the expense attending its unloading and warehousing there would be an additional 3s.; making its price to the importer about 43s. a quarter. (Report, p. 316.) Mr. Solly further stated, that when the foreign demand was considerable, the price was much higher; and, according to the data given in his evidence, it is plain that fine Dantzic wheat could not be imported into London, in ordinary years, in the event of our ports being opened, at less than from 50s. to 55s. a quarter.

Perhaps, however, we shall be able to draw a more accurate conclusion with respect to the *probable* future price of corn at Dantzic, from observing what it has actually been for the last fifty years. And, therefore, we beg to call the attention of our readers to the following Table furnished to the Committee of 1821, by Mr. Grade of Dantzic, of the average prices of corn at that city, free on board, in decennial periods from 1770 to 1820.

*Average Price, from ten to ten years, of the different species of Corn, free on board, per quarter, in Sterling money, at Dantzic.*

		Wheat.		Rye.		Barley.		Oats.	
		s.	d.	s.	d.	s.	d.	s.	d.
From 1770 to 1779	-	33	9	21	8	16	1	11	1
1780 to 1789	-	33	10	22	1	17	11	12	4
1790 to 1799	-	43	8	26	3	19	3	12	6
1800 to 1809	-	60	0	34	10	25	1	13	1
1810 to 1819	-	55	4	31	1	26	0	20	4
Aggregate Average Price of 49 Years		45	4	27	2	20	10	13	10

Now, if to the average price of wheat at Dantzic during this period, we add 7s. or 8s. a quarter on account of freight and insurance to London, and warehousing there, we shall have 52s. or 53s. a quarter, as its *minimum* cost in England during the same period.

But we shall be told, that whatever prices may have been at Dantzic five or ten years since, they are very different at present; and that the official returns made by the British Consul of the price of wheat in that city, in 1824 and 1825, show that it did not exceed 21s. a quarter, or 24s. free on board. But while we admit the accuracy of this statement, we deny that it affords the shadow of a reason for doubting any of the conclusions we have been endeavouring to establish. It is true that, during the last two or three years, there has been, owing to the shutting up of the English and French ports, and the consequent cessation of a large proportion of the foreign demand, a great decline in the price of Polish wheat. We are not, however, to confound the accidentally low prices, caused by the occurrence of such circumstances, with their common and average level: for we may be assured, that if the present prices are below the sum for which corn can be raised for exportation in ordinary years, the depression cannot be permanent. There is no doctrine in economical science, or indeed in any science, better established than that which teaches, that production must cease when its expenses are no longer paid: and, though we have no very high idea of the penetration of the serfs of Poland and Russia, we apprehend they have sagacity enough to cease sending corn to market when they find that the price they obtain for it is insufficient to remunerate them for their outlay. It is obvious, therefore, that the determination of the question with respect to the permanence of the present low prices, hinges upon the point, whether they are or are not sufficient to defray the expenses of the cultivators: If they *are*, we may expect to be able annually to buy from them about as much wheat as would furnish a single breakfast for the city of London for 24s. a quarter, exclusive of the expenses of carriage; but if they *are not*, we need not flatter ourselves with the expectation of getting so great an advantage. — Let us see how the fact stands.

To begin with native authorities: — Mr. Grade of Dantzic states, in a letter printed in the Appendix to the Report of the Agricultural Committee of 1821 (p. 364), that ‘ From a calculation made out by an



‘ eminent practical land proprietor in the adjoining province, it appears, that *if land could be had for nothing, and reckoning upon no casualties, such as a failure of the crop, extraordinary taxes, requisitions, quartering of troops, &c. the mere producing prices of grain would be —*

‘ 300 f.	Prussian currency per load of wheat,	or 31s. 9d. per quart.
‘ 150 f.	per do. of rye,	or 15s. 10d. per do.
‘ 120 f.	per do. of barley,	or 12s. 8d. per do.
‘ 90 f.	per do. of oats,	or 9s. 6d. per do.

‘ To these must be added, according to the distance and description of grain, from 4s. to 6s. a quarter for bringing the produce to market, and incidental expenses on the same.’ It will be observed, that this estimate applies only to the provinces in the vicinity of Dantzic. Had it applied to those south of Warsaw, the cost of bringing grain to market would have been at least double.

We have next to call the attention of our readers to the following extracts from a communication, addressed by Messrs. Almonde and Behrend of Dantzic, to their correspondents in London, in October 1824. These gentlemen are largely engaged in the Dantzic corn trade. They have agents in every part of Poland; and are intimately acquainted with the state of the country. We ought also to observe, that Messrs. Almonde and Behrend had no idea whatever that their communication was to be made public, and intended it merely for the private information of their friends in this country.

After giving an account of the quantity of grain warehoused at Dantzic, Königsberg, Elbing, and other ports on the Baltic, Messrs. Almonde and Behrend proceed as follows:—

‘ The corn trade having now lingered in a depressed state for upwards of six years, the results of this unfortunate circumstance to the whole northern continent, and more particularly to this country, have been extremely disastrous. The penury of the agriculturists having been driven to the highest pitch, production has gradually diminished; and as the higher classes have also felt the pressure of this general impoverishment, our commercial intercourse with the Western parts of Europe has experienced a serious diminution. *It is generally thought that the consumption of British Colonial produce and manufactures does not, at present, exceed one half of what it was before this unfortunate crisis of the corn trade took place.*

‘ The price of wheat at which the Prussian farmer can afford to pay the moderate taxes of this country, is calculated, by the best economists, at about 35s. the Winchester quarter; but the landed proprietors in Volhynia, from which province we get the bulk of good wheat, *cannot supply the ports on the Baltic at less than 38s.*, as they have nearly 14s. a quarter to pay for freight, duties, and charges on account of the conveyance down the Vistula. Hence it appears, that our prices have, for these five years past, been *under the cost of production*; which accounts sufficiently for the considerable decrease which is observed in the extent of the Polish supplies and our home produce. It has been rumoured that our Government intends to retaliate, or at least to meet the present prohibitive system of the western countries, by a similar measure, as regards several expensive articles of importation, which are not in the number of the immediate necessities of life; but little good is anticipated from such a measure, as it would perhaps tend to annihilate trade altogether.’

The information collected by Mr. Jacob, in his tour, corroborates, in every respect, the statements in this letter. He found that the quantity of grain in the warehouses at Dantzic, Elbing, &c. had been rapidly diminishing; and that the cultivators were gradually withdrawing land from tillage, and employing it in the feeding of sheep, the wool of which met with a comparatively advantageous sale. It appears, from the tables furnished to Mr. Jacob, that the average price of wheat at Warsaw, from June 1796 to June 1820, had been 33s. a quarter, and in the ten years from 1815 to 1824, it had been 31s. But when Mr. Jacob was there last year, the price was as low as 14s. 9d.! In consequence of this extraordinary fall, the distress of the agriculturists had approached to a *maximum*. And Mr. Jacob mentions, that he was assured by Count Mostoski, the minister of finance, who has an estate near Warsaw, that the *cost price* of wheat in that neighbourhood was, at the very least, *twice as much* as it was then selling for — a statement which was confirmed by all the other individuals with whom he had any conversation on the subject; and which was indeed proved beyond all controversy, by the embarrassments in which the proprietors and cultivators were universally involved, and by the conversion of tillage land to pasture. — (*Report*, p. 38.)

It is thus established, by evidence which it seems impossible to controvert, that the present prices of corn in Poland are greatly under the cost of production, and that, consequently, they must speedily rise. And assuming, as we are entitled to do, that 30s. a quarter is the lowest price for which any considerable quantity of wheat for exportation can be permanently raised in the corn-growing provinces in the vicinity of Warsaw, its *minimum* cost price, when brought to London, according to the data furnished by Mr. Jacob, would be as under: —

	<i>s.</i>	<i>d.</i>
Cost of wheat at Warsaw per quarter - -	30	0
Conveyance to the boats, and charges for loading and stowing, and securing it by mats - -	0	6
Freight to Dantzic - - - -	5	0
Loss on the passage by pilfering, and rain causing it to grow - - - -	3	0
Expenses at Dantzic in turning, drying, screening, and warehousing, and loss of measure - -	2	0
Profit or commission, as the case may be, to the merchant at Dantzic - - - -	1	6
Freight, primage, insurance, and shipping charges at Dantzic and in London - - - -	8	0
<i>Cost of the wheat to the English merchant -</i>	<hr/> 50	<hr/> 0

It ought, however, to be observed, that the premium paid the underwriters does not cover the risk attending damage from heating or otherwise on the voyage; and it ought farther to be observed, that the freight from Warsaw to Dantzic, and from Dantzic home, is here charged at the lowest rate, or at the rate which is paid for the carriage of the trifling quantities that are at present exported. Mr. Jacob supposes that a demand for as much wheat as would be equal to *six* days' consumption of that grain in England, or for 216,000 quarters, would raise the cost of freightage on the Vistula from 30 to 40 per cent.. and as such a demand could not certainly be supplied without resorting to the



markets in the provinces in the neighbourhood of Cracow, it is clear its *minimum cost* to the London merchants could not, under such circumstances, amount to less than from 52s. or 53s. to 55s. or 57s. a quarter.

We have dwelt so long on the circumstances connected with the Corn Trade of Poland, that we must be comparatively brief in our notices with respect to the state of that trade in other countries. Next to Dantzic, Hamburg is, perhaps, the greatest corn market in the north of Europe, being at once a *depôt*, as well for large quantities of Baltic corn, as for the produce of the countries traversed by the Elbe. But the excess of wheat exported from Hamburg, over that which is imported, is much less than might have been expected, and amounts, on an average of the last ten years, to only 48,263 quarters a year. The average price of wheat at Hamburg, during the six years ending with 1822, was 47s. 4d. a quarter. Bohemian wheat is occasionally forwarded by the river to Hamburg; but the charges attending its conveyance from Prague amount to full 17s. a quarter, and effectually prevent its being sent down, except when the price is excessively high.

Mr. Jacob mentions, that the quantity of wheat exported from Denmark in the six months which followed the abundant harvest of 1824, amounted to only 57,561 quarters; and he doubts whether there were 20,000 quarters in store in that kingdom last October. (*Report*, p. 10.) Undoubtedly, however, a greater quantity of grain would be obtained from Denmark were our ports constantly open. And perhaps we might be able, did our prices average from 50s. to 55s., to import, in ordinary years, from 180,000 to 200,000 quarters of wheat from Denmark, and the countries intersected by the Weser and the Elbe.

Amsterdam is merely a *depôt* for foreign corn: a very small part only of its consumption is supplied from corn of the growth of Holland, so that prices there are entirely dependent upon the prices at Dantzic and the other great northern markets.

It appears, from the accounts given by the Marquis Garnier in the last edition of his translation of the 'Wealth of Nations,' that the price of the *hectolitre* of wheat at the market of Paris amounted, on an average of the nineteen years beginning with 1801, and ending with 1819, to 20 fr. 53 cent.; which is equal to 30 fr. 80 cent. the septier, or, taking the exchange at 25 fr., to 45s. 6d. the quarter. Count Chaptal, in his valuable work, *Sur l'Industrie Française*, (tom. 1. p. 226), published in 1819, estimates the ordinary average price of wheat throughout France at 18 fr. the hectolitre, or 42s. 10d. the quarter. The various expenses attending the importation of a quarter of French wheat into London may be taken, at a medium, at about 7s. a quarter. France, however, has very little surplus produce to dispose of; so that it would be impossible for us to import any considerable quantity of French corn without occasioning a great advance of price.

We regret that we are possessed of but few authentic details with respect to the state of the corn trade at Odessa on the Black Sea, the only port in Southern Europe from which any considerable quantity of grain is exported. We believe, however, that the fertility of the land in the vicinity of Odessa has been most grossly exaggerated; and, owing to the difficulty of the navigation down the Dniester, corn from the Polish provinces to the south of Cracow has to be conveyed to Odessa, at an immense expense, in waggons! According to the returns made by the British Consul, the average price of hard wheat at Odessa last year, when there was very little foreign demand, amounted to about 20s. a



quarter; and according to a statement given in a late number of the Westminster Review, said to have been obtained from the best mercantile authority in Odessa, the average price of both hard and soft wheat in that market, for the eight years ending with 1824, amounted to 22s. 4½*d.* Owing to the distance of Odessa, and the difficulty of navigating the Black Sea, the charges on account of the importation of wheat from thence to London are rated as high as 22s. 6*d.* a quarter. It appears, therefore, that the lowest cost price of Odessa wheat, in the English market, would amount to about 45s.; but the *quality* of average Odessa wheat being fully *one-sixth* inferior to the quality of average English wheat, it could not, it is plain, be sold in ordinary years in the London market, except when the average price of English wheat was equal to or above 53s. or 54s. a quarter.

It appears, from the consular returns, that the prices of wheat last year at New York and Philadelphia may be taken, on an average, at from 34s. to 35s. a quarter. But they were then unusually low; and as the cost of importing a quarter of wheat from the United States into England amounts to from 12s. to 14s., it is seen that no considerable supply could be obtained from that quarter, were our prices under 50s. or 52s. a quarter. The usual price of wheat in Canada, when there is a demand for the English market, is about 40s. a quarter; but taking it as low as 35s., if we add to this 12s. a quarter as the expenses of carriage, it will make its cost price in Liverpool 47s.; and being spring wheat, it is not so valuable, by about 6s. a quarter, as English wheat.

We think that, by this investigation, we have completely established two most important points. *First*, that the total quantity of all sorts of grain imported into Great Britain and Ireland, in the event of our ports being thrown open, could hardly, under any almost conceivable circumstances, exceed from *one-twentieth* to *one-twelfth* part of our entire consumption; and, *second*, that the price for which such foreign corn could be obtained could not, in ordinary years, be less than 50s. a quarter; and would most probably range from 52s. to 57s.

Now, it appears, from the official accounts laid before the House of Commons, that the average price of wheat in England and Wales, for the *ten* years ending with 1825, amounted to 66s. 11*d.* a quarter; and, lest we should be accused of overstating the ordinary importation price of foreign wheat, we shall estimate it at the low rate of only 48s.; and shall suppose, that though it were burdened, as we shall subsequently endeavour to show it ought to be, with a duty of 5s. or 6s. a quarter, it might, notwithstanding, be sold on an average for 53s. or 54s. And even on this most reasonable hypothesis, it is evident, in the event of the ports being thrown open, under the above mentioned duty, that there is no reason whatever to suppose that prices would be reduced more than from 13s. to 14s. a quarter below the average of the last *ten* years, including of course the high-priced years of 1817 and 1818, or more than 8s. or 9s. a quarter below the average prices of the last eight years.

We feel pretty confident that the statements we have now made cannot be controverted; and they show, conclusively, how miserable an error it is to suppose that the repeal of the existing Corn Laws, and the opening of the ports for importation, under a duty of 5s. or 6s., could have the effect of throwing a large proportion of our cultivated lands into pasture, or causing a ruinous decline in the price of corn. The average price of wheat in England and Wales in 1802, 1803, and



1804, years of decided agricultural improvement, was exactly 61s. a quarter, being only 7s. or 8s. above its probable future average price under a system of free trade; while the greater cheapness of labour, and the various improvements that have been made in agriculture since 1804, would enable corn to be raised from the same soils at a much less expense at this moment than in that year. It cannot be justly said that even 1823 was by any means an unfavourable year for the farmers; and yet the average price of wheat was then only 51s. 9d., being 1s. 3d. a quarter *less* than its lowest possible average price under the system we have ventured to propose. The landlords and farmers may, therefore, take courage. Their prosperity does not rest on the basis of an odious restrictive regulation; but is the effect of the fertility of the soil which belongs to them, of the absence of all oppressive feudal privileges, and of the number and wealth of the consumers of their produce. The unbounded freedom of the corn trade would not render it necessary to abandon any but the most worthless soils, which ought never to have been broken up; and would, consequently, have but a very slight effect on rent.

But while the abolition of the Corn Laws would be productive of no material injury to the farmers and landlords, by reducing the average price of raw produce, it would, by giving greater steadiness to prices, be no less advantageous to them than to the other classes of the community. Were the freedom of the corn trade established, our prices would be governed by the *average* price of Europe: and it is plain, inasmuch as the weather that is unfavourable to the crops raised in a district having a particular soil or climate, is most commonly favourable to those raised in districts having a different soil or climate, that the *average* price of a great Continent, or rather of the whole Commercial world, must necessarily be incomparably more steady than that of a single kingdom. It is observed by Mr. Gibbon, that ‘those famines which so frequently afflicted the infant Republic, were seldom or never experienced by the extensive empire of Rome. *The accidental scarcity of any single province was immediately relieved by the plenty of its more fortunate neighbour.*’ (Decline and Fall, i. p. 86.) Holland, during the days of her greatest prosperity, was chiefly fed on imported corn; and it is an undoubted fact, that prices in Amsterdam were always comparatively moderate, and fluctuated less than in any other market of Europe.\* The experience, in a word, of all ages and nations proves, beyond all question, that it is freedom, and freedom only, that can put an effectual stop to those sudden and excessive fluctuations in the price of corn which are so extremely ruinous to all classes of the community, but most of all to the farmer. When a comparatively rich and highly populous country like England excludes foreign produce

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\* ‘Que la disette des grains,’ (says M. Luzac, the well-informed author of the *Richesse de la Hollande*), ‘regne dans les quatre parties du monde; vous trouverez du froment, du seigle, et d’autres grains à Amsterdam; ils n’y manquent jamais.’ An attempt has recently been made to controvert the principle stated above, by referring to the variations that have taken place in the price of wheat at Amsterdam during the last ten or twelve years. But these variations are almost wholly owing to our corn laws. Whenever our ports are opened, the prices in the markets in the vicinity suddenly rise to nearly our level; and when they are shut, they as suddenly decline. Our system is not only a nuisance to ourselves, but to all our neighbours.



from her markets, she is compelled to resort to very inferior soils for supplies of food. In consequence, her average prices are raised far above the common level of surrounding countries; and therefore, when an unusually luxuriant crop occurs, no relief being obtained from exportation, the whole surplus produce is thrown on her own markets, and a ruinous depression of price necessarily and unavoidably follows. The avowed object of the Corn law of 1815, which prevented all importation of foreign wheat for home consumption until the home price rose to 80s., was to keep the price steadily up to that level. But the slightest acquaintance with the most obvious principles would have taught the framers of this Act that it could never attain that object. By preventing importation, except in years when the home crops are deficient, we necessarily prevent the establishment of any regular and systematic intercourse with foreign countries. Since 1815, no Polish or American cultivator has ever been able to calculate on a demand from England: in consequence, no corn has been raised in these countries for our markets; and when our crops have been deficient, the inadequacy of the foreign supplies has allowed our prices to rise to an exorbitant height. Had the corn trade been free, the calamitous harvest of 1816, for example, would have been met by abundant importations, the average price in April that year being 65s. 5d.; but it was not ascertained that the ports would open at 80s. till the 15th of November, *when the season was too far advanced to admit of importation from the great corn ports of Europe*; and in consequence, before the spring shipments could arrive, the average price of wheat had risen to 103s. 11d., being little short of double its price only twelve months before! Owing partly to the unprecedented destruction of agricultural capital that had taken place during the low prices of 1814, 1815, and 1816, partly to deficient harvests, and, more than all, to the restraints on importation, the prices of 1817, 1818, and 1819 were oppressively high. But mark the effects of this increase of price. It led the farmers to suppose that the Corn law was at length beginning to have the effects its supporters had anticipated from it; their drooping spirits were in consequence revived; fresh capital was applied to the land; and this increase of tillage, conspiring with favourable seasons, again sunk prices to such a degree, that they fell in October 1822 so low as 38s. 1d., the average of that year being only 43s. 3d.!

It is thus that the restrictive system is productive of double mischief. By preventing importation, it aggravates all the evils of scarcity when the home crops are deficient; while, by forcing the cultivation of poor soils, and raising average prices, it prevents exportation in a year of unusual plenty, and renders the bounty of Providence a curse to the farmer! So long as we support the existing Corn laws, we shall have the same incessant alternation of ruinously low and oppressively high prices which we have experienced since 1815. At one time our ears will be stunned with the complaints of the agriculturists; and when these have subsided, they will be assailed with the louder and more piercing and menacing cries of the manufacturing population — with the noise of radical rebellions, and fresh suspensions of the Habeas Corpus Act! The low prices of the restrictive system cannot be otherwise than ephemeral — *opulentia mox paritura egestatem*; — for these low prices, by destroying agricultural capital, and driving bad land out of cultivation, necessarily diminish the supply, and occasion an unmeasured increase of price on the occurrence of the first unfavourable harvest. But it is



material to observe, that while this increase of price is fatal to the great mass of the consumers, it is of no real advantage to the agriculturists; for, by attracting additional capital to the soil, and extending cultivation, the supply is again increased; and, instead of their extravagant expectations being realized, the first luxuriant harvest again plunges them into the abyss of poverty and misery! Such is the practical and real operation of this monstrous system. Alternately productive of famine and excess, it is equally ruinous to the agricultural, manufacturing, and commercial classes; and, if not put down, it will most probably end by destroying the capital of the country, and by sinking all classes, high as well as low, below the level of what was originally lowest.\*

\* The corn law of 1822 is a second, though certainly not an improved, edition of that of 1815. It allows the importation of foreign wheat when the home price is 70s.; but if the home price is under 80s., a duty of 17s. is imposed during the first three months, and of 12s. afterwards! This is really very near the same thing as absolute exclusion up to 80s. This law has not hitherto come into operation, except in the case of oats. We subjoin a note of the provisions of this Act, and of the provisions in the two Acts passed during the last Sessions, for allowing foreign corn to be taken out of warehouse for home consumption; and for giving a power to the Privy Council to admit foreign corn until six weeks after the meeting of Parliament, under certain modifications.

By the 3d of Geo. IV. cap. 60. the Act of 1815 was repealed, and importation was permitted, when, for three months preceding the 15th of February, May, August, or November, the average prices exceeded the rates stated below, at the rates of duty affixed, viz.

When the Average Prices, per Quarter, rate as below :		Extra for the first Three Months.	Rate of Duty per Quar.
From British Possessions in America.	From all other Parts.		
<b>WHEAT :</b>			
If at 59s. } but under { 67s. 67s. } 71s.	If at 70s. } but under { 80s. 80s. } 85s.	12s. 5s.	5s. 5s.
If at or above - - 71s.	or if at or above - - 85s.	1s.	
<b>BEANS, PEAS, or RYE :</b>			
If at 39s. } but under { 44s. 44s. } 46s.	If at 44s. } but under { 53s. 53s. } 55s.	8s. 3s. 6d.	3s. 6d. 3s. 6d.
If at or above - - 46s.	or if at or above - - 55s.	8d.	
<b>BARLEY, BEAR, or BIGG :</b>			
If at 30s. } but under { 33s. 33s. } 35s. 6d.	If at 33s. } but under { 40s. 40s. } 42s. 6d.	6s. 2s. 6d.	2s. 6d. 2s. 6d.
If at or above - - 35s.	or if at or above - - 42s. 6d.	6d.	
<b>OATS :</b>			
If at 20s. } but under { 22s. 6d. 22s. 6d. } 24s.	If at 25s. } but under { 28s. 28s. } 30s.	4s. 3s.	2s. 2s.
If at or above - - 24s.	or if at or above - - 30s.	4d.	
<div> <div> Wheat Meal or Flour, and Oatmeal, are admitted for Consumption, either from British Possessions in America or from any other part, at the Rates of Duty hereunto affixed, when the Average Prices of Wheat and Oats respectively correspond with the Rates above specified. </div> <div> Wheat Meal or Flour, at per Cwt. { 3s. 3d. 1s. 7d. 4d. Oatmeal, per Boll. { 4s. 10d. 2s. 2d. 6d. </div> </div>			
Peas, when prohibited as Corn, are admitted for Seed or any other purpose, at 7s. per Bushel.			

Attempts have frequently been made to form a pecuniary estimate of the actual loss which the existing restrictions on the corn trade entail on the country in ordinary years. But it is evident that the whole mischief to which they give rise, and their disastrous influence upon the public tranquillity, do not admit of being measured by a pecuniary standard. We think, however, that we may assume, as a point fully established by the previous investigation, that in the event of the ports being thrown open to the free importation of wheat charged with a duty of 5s. or 6s., we should not only be exempted from those ruinous fluctuations of price that are inherent in the restrictive system, but that the average price of wheat would not in ordinary years exceed 53s., and other grain in proportion. Now, it is an incontrovertible proposition, that every additional shilling added to the price of the FORTY-EIGHT millions of quarters consumed in the Empire, by means of the prohibition against importation, is really

By 7 Geo. IV. cap. 70. Foreign Corn, Meal, and Flour warehoused, were permitted to be taken out for Home Consumption, until the 16th day of August 1826,

*At the following rates of duty, viz.*

Wheat	-	-	12s. per quarter.		Barley, Bear, or Bigg,	6s. per quarter.
Beans, Peas, or Rye	8s.	do.			Oats	- - - 4s. do.

Wheat Meal or Flour 3s. 3d. per Cwt.

7 Geo. IV. cap. 71. An Act to empower his Majesty to admit Foreign Corn for Home Consumption, under certain limitations, until the 1st of January 1827, or for 6 Weeks after the Commencement of the next ensuing Session of Parliament, if Parliament shall not then be Sitting. The following is the detail, viz.

‘Whereas it may become expedient, for a time to be limited, to admit a further quantity of corn or flour for home consumption, in addition to the foreign corn, grain, meal, or flour which had been warehoused, or reported inwards to be warehoused, on or before the 2d day of May 1826: Be it therefore enacted, by the King’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That at any time after the end of the present Session of Parliament, and until the 1st day of January 1827, or for six weeks after the commencement of the then ensuing Session of Parliament, if Parliament shall not then be sitting, it shall be lawful for his Majesty, by any order or orders to be by him issued, by and with the advice of his Privy Council, to admit to entry for home consumption any quantity of warehoused wheat or wheat flour not exceeding 500,000 quarters in the whole, on payment of such duty as shall be declared in any such order to be payable upon the entry of the same: Provided always, that no such order in Council shall continue in force for more than two calendar months from the day of the date thereof; and provided also, that no such order shall extend to admit to entry any wheat or wheat flour which had been warehoused, or reported inwards to be warehoused, before the said second of May.

‘Provided always, That the duty so to be declared in any such order shall not in any case exceed the duty enacted by 3 Geo. IV. cap. 60.’

The fact of such acts as those now quoted having been passed, sets the impolicy of the existing system, and the necessity of its abolition, in the clearest point of view. It is difficult at this moment (10th September), to collect any precise information with respect to the productiveness of the harvest that has just been concluded. We do not think, however, that there can be any doubt that oats and barley, and probably also potatoes, will be very deficient: and if so, it is clear that a large proportion of the poorer classes will be involved in great distress, although the wheat crop is understood to be rather above an average. Had it



equivalent, in its effects on the consumer, to a tax of 2,400,000*l.* laid directly on corn: and estimating the difference between the average price of all sorts of grain for the last eight or ten years, and its average price were the ports thrown open, at 8*s.* a quarter, *this would make a total aggregate loss to the consumer of not less than NINETEEN MILLIONS SEVEN HUNDRED THOUSAND POUNDS STERLING a year!*

It is of the greatest importance to mark the dilemma in which the advocates of agricultural monopoly are placed by this statement. If, on the one hand, they say that we have *understated* the price at which foreign corn could be imported, and that we should not really be able to obtain it, with a duty of 5*s.* or 6*s.* a quarter, for less than 60*s.* or 65*s.*, then it is plain their present monopoly can be of scarcely any value to the agriculturists\*; and that its only effect is to shut us out from participating in the provision made by nature for equalizing the variations in the harvests of particular countries by means of commerce,

not been for the restrictions on importation, we should now have been importing oats from all quarters.

We subjoin, for the convenience of our readers, an account of the average prices of the principal species of grain in Great Britain, from 1800 to 1825, abstracted from the Parliamentary Paper, No. 227, Sess. 1824-5.

Years.	Wheat, Average Price per Quarter.		Barley, Average Price per Quarter.		Rye, Average Price per Quarter.		Oats, Average Price per Quarter.		Peas, Average Price per Quarter.	
	<i>s.</i>	<i>d.</i>	<i>s.</i>	<i>d.</i>	<i>s.</i>	<i>d.</i>	<i>s.</i>	<i>d.</i>	<i>s.</i>	<i>d.</i>
1800 - -	110	5	72	3	76	11	43	7	67	5
1801 - -	115	11	64	6	79	9	35	11	67	8
1802 - -	67	9	32	4	43	3	19	9	39	6
1803 - -	57	1	24	7	36	11	20	11	38	6
1804 - -	60	5	30	1	37	1	23	7	40	10
1805 - -	87	1	43	2	54	4	27	6	48	4
1806 - -	76	9	37	6	47	4	26	9	43	6
1807 - -	73	1	38	2	47	6	27	6	55	11
1808 - -	78	11	42	1	52	4	32	4	66	7
1809 - -	94	5	45	7	60	9	30	6	60	2
1810 - -	103	3	46	8	59	0	27	9	55	9
1811 - -	92	5	41	0	49	11	26	9	51	6
1812 - -	122	8	64	9	75	11	43	2	73	7
1813 - -	106	6	56	9	70	7	37	4	78	6
1814 - -	72	11	36	3	44	6	24	11	50	0
1815 - -	63	8	29	4	37	10	22	11	38	10
1816 - -	76	2	32	11	43	2	22	6	38	4
1817 - -	94	0	47	11	56	6	31	6	51	5
1818 - -	83	8	52	3	54	10	31	6	59	11
1819 - -	72	3	44	5	49	0	27	4	56	0
1820 - -	65	10	32	10	40	10	23	6	44	11
1821 - -	54	5	25	3	31	1	18	11	31	9
1822 - -	43	3	21	3	20	3	17	7	25	7
1823 - -	51	9	30	7	30	11	22	3	33	11
1824 - -	62	0	35	3	40	2	24	1	39	5
1825 - -	66	6								

\* The average price of wheat for the *six* years ending with 1825, in Great Britain, was as low as 57*s.* 3*d.* a quarter.

and, consequently, to occasion those destructive oscillations of price, which are at least as ruinous to the farmer as to either the manufacturer or merchant: and if, on the other hand, the advocates of monopoly should accuse us of having *overstated*, as we suspect will be the case, the price at which foreign corn could be imported — if prices, for example, instead of declining 8s. after the ports were thrown open, would decline 10s. a quarter; then it is clear that the Corn laws must be a much greater nuisance than we take them for, and that, instead of occasioning a loss of 19,700,000*l.* to the consumers, they must really occasion a loss of 24,000,000*l.*: and if the price of corn should, on an average, decline 15s. a quarter, it follows that the annual loss occasioned by the Corn laws to the consumers cannot amount to less than the enormous sum of THIRTY-SIX MILLIONS!

But believing, for the reasons already stated, that the loss really sustained by the consumers of corn, in consequence of the restrictions on importation raising its average price 8s. a quarter above what it would be were they abolished, may be fairly and moderately estimated at about *twenty* millions, it is of the utmost importance to inquire what becomes of this immense sum.

The common opinion is, that the whole of it goes to swell the rent-roll of the landlords: but this is an obvious mistake. It is doubtful, in fact, whether the entire rental of England and Wales amounts at this moment to *twenty-four* millions. The truth is, that the monopoly created by the Corn laws is not like any other monopoly. It does not occasion a mere transfer of wealth from one portion of the community, who are its rightful owners, to another portion who have no just claim to it. If the monopoly enjoyed by the landlords and corn-growers were like that enjoyed by the East India Company — if its effect was only to occasion an unnatural distribution of the wealth of the country — to plunder and impoverish nine tenths of the population to enrich the other tenth, it would be comparatively harmless. But it is of the very essence of this question to observe, that the Corn laws occasion the *destruction* of much more wealth than they *transfer*. We do not exaggerate when we affirm, that of every *five hundred thousand pounds* of excess of price drawn from the pockets of the consumers, scarcely *one hundred thousand* finds its way into the pockets of the landlords! The other *four hundred thousand* are absolutely and totally lost to the country; they are expended *en pure perte*, and without contributing in the smallest degree to increase the comforts or enjoyments of any individual whatever. We admit that this is rather a startling statement; but if we succeed in establishing its perfect accuracy, it cannot be necessary to add another word to show the vast advantages that would result from the abolition of the Corn laws.

The rent of a country consists, as we have shown again and again, of the excess, or the value of the excess, of the produce obtained from the superior soils under cultivation, above that which is obtained from the worst. But when, by excluding ourselves from the cheapest markets for corn, we force recourse to be had to poorer soils, we not only increase the *magnitude* and *value* of that portion of the produce of the country received by the landlord as rent, but we also increase the value of that portion which is required to indemnify the farmer for his expenses, — a portion which is invariably much larger than the other. According to answers made to Queries circulated by



the Board of Agriculture, and the Evidence taken before the Committees of the Houses of Lords and Commons in 1814 and 1821, the average proportion which the rent paid to the landlords in England and Wales, bears to the whole produce of the soil, does not exceed A FIFTH. But let us take the proportion as high as A FOURTH: it is plain, that, when prices rise because of restrictions on importation from abroad, or any other cause, the landlords receive such additional price only for that *one-fourth* part of the produce of the country which belongs to them as rent. This is a point about which it is evidently impossible there can be two opinions. And it is hardly less obvious, that neither the farmer nor any other individual reaps the smallest advantage from the rise in the price or value of the *three-fourths*, which do not go to the landlord. For, it must be observed, that when the price of corn rises, the wages of the labourers which the farmer employs, must sooner or later be raised in a corresponding proportion; at the same time that the expenses of seed, of the keep of horses, of the maintenance of his own family, &c., are all *equally and immediately increased*. If the rise of price, occasioned by the exclusion of foreign corn, could be confined to that portion of the produce which belongs to the landlord, he would receive the whole extra sum forced by the exclusion out of the pockets of the consumer. But this is not, and cannot possibly be the case. There cannot be *two* prices of the same commodity at the same time and in the same market. The monopoly system, which gives a greater value to that *one-fourth* part of the produce of the country which goes to the landlords as rent, equally raises the value of the other *three-fourths*, which are partly cast into the soil as seed, and partly consumed by the men, horses, and oxen employed by the farmer.

It appears, therefore, from reasonings directly deduced from the statements of the most intelligent agriculturists, that to whatever extent the Corn laws raise the price of corn above what it would be were these laws repealed, not more than *one-fourth* part of that sum finds its way into the pockets of the landlords; and that the remaining *three-fourths* are absolutely and entirely lost or destroyed. It has been contended, indeed, that although a very large proportion of that increased price, which the present system obliges the consumers of corn to pay for it, is not received either by the landlord or farmer, it is paid as wages to the labourers employed in its production, and cannot, therefore, be said to be wholly lost. But this is plainly a most feeble and impotent attempt to bolster up a worthless system, by still more worthless arguments. We ask, first, whether it is possible to deny that the increased value which the restrictive system gives to the corn used as seed, and in the feeding of horses, is not absolutely and totally lost? Can it be said that seed is more productive when it costs 70s. or 80s. a quarter, than when it costs only 50s. or 55s.? Or, is it really true, that the strength and swiftness of our horses are augmented when they are made to feed on dearer corn? But, even if all the produce which is not received by the landlord were to be expended in the maintenance of labourers, it would be of no consequence to our argument. It is true, that if we were to purchase our food in the cheapest market, a considerable number of persons now engaged in the cultivation of bad soils would be thrown out of *that* employment. But it is no less true that they would be employed in some other way. If the consumers of corn were able to obtain the same supply of that neces-

sary for two-thirds or three-fourths of the sum which it now costs, they would most unquestionably have the other third or fourth of this sum to expend on something else. The *total effective* demand of the country for the produce of labour, and consequently the rate of wages, and the power of obtaining employment, would therefore continue the same; while its wealth would be augmented by the produce of the labour of all the hands which had been set free from the production of corn. Suppose we require, under the existing system, the labour of *two* millions of people to raise forty-eight millions of quarters of corn, and that by throwing the ports open, we obtain as large a supply by the labour of *one million and a half*; then, as the means by which the consumers paid the labour of the two millions of hands could not be diminished in consequence of this increased facility of production, it is clear to demonstration, that, after the fall of prices, the surplus half million of hands would be employed in some other pursuit; and consequently, that the produce of their labour would be so much *clear gain* — so much of *positive addition* to the previous wealth and riches of the country.

It may therefore be concluded, that of the enormous sum of about TWENTY millions, which the restrictions on the corn trade take, in ordinary years, from the consumers, not more than *five* find their way into the pockets of the landlords. The other *fifteen* millions are entirely lost, or, which is the same thing, are entirely swallowed up by the increased expenses attending the cultivation of the bad soils to which the Corn laws force us to have recourse. Instead, then, of its being true, as has sometimes been alleged, that the corn laws assist in enabling the country to make good the taxes necessary to pay the interest of the public debt, and the expenses of the peace establishment, it is obvious that *they form, of themselves, by far the greatest of all the burdens we have to sustain!* No people was ever before subjected to such a scourge. The Corn laws do not, like an ordinary tax, transfer wealth from one portion of the public to another; but, on the most moderate estimate, they occasion a positive destruction — *a dead annual loss to the public of not less than FOURTEEN or FIFTEEN millions!*

Bad, however, as this must certainly appear, it is not perhaps the most unfavourable view of the operation and practical effect of the Corn laws. When the rate of wages is raised, in consequence of a rise in the price of raw produce, *the rate of profit is universally reduced.* The incomes of the capitalists being thus diminished, their means of amassing additional capital and employing fresh labourers are proportionally reduced, at the same time that an overwhelming temptation is created to transfer capital to other countries where profits are higher. There can be no manner of doubt that a large proportion of the loans lately made in this country to the Continental States and the South American Republics, must be ascribed to this principle, or to the operation of the Corn laws in depressing profits: and the bankruptcy and ruin that have been occasioned by these loans, and the injury done to the working classes by sending abroad so large an amount of capital, or of the funds destined for the employment of labour, are of themselves conclusive reasons why the Corn laws should be abolished.

Although, therefore, it were true that the landlords really made the sum of four or five millions a year by the existing Corn laws, we cannot but think that they would rather consent to relinquish it, than continue to cling to a system fraught with so much injustice and ruin. But



instead of gaining by it, we are most firmly persuaded that this system is no less hostile to their *real and lasting interests* than to those of the rest of the community. *Provided prices could be kept steady*, they would certainly gain for a while the advantage we have supposed. But this is plainly an impossible condition: Prices can never be steady under this system: and we are quite sure, that every landlord who will dispassionately consider the subject must admit, that it would be more for his interest to be secured in the regular payment of a somewhat lower average amount of rent, than to be perpetually exposed, as he must be during the continuance of the restrictive system, to the non-payment of the high rents that may be promised him in high-priced years. It is, moreover, in every point of view, the extreme of folly to suppose, that a system, which is so essentially injurious to the other classes of the community, can be really beneficial to those who have so deep an interest in the public prosperity as the landlords. Whatever advantage they may derive from it, can only be fleeting and illusory: for it must of necessity be purchased at the expense of those with whom their own interests are inseparably and indissolubly connected. If prices were steady, the landlord's rents would also be steady. His estate would not be ruined by over-cropping, and by the breaking up of old grass land and meadows in high priced years; nor would it be thrown on his hands without the possibility of letting it, when prices sink below the cost of production.\* Instead of being deluded by expectations of augmented revenue, which, so long as the present system lasts, can never be realized for four years in succession, he would be able to form a precise notion of the extent of his income and resources, and would be able to proportion his expenditure to his means; and above all, he would have the pleasing consciousness that he had regained his proper place in society and in the public estimation; that he was no longer regarded as a monopolist, and that his interests, instead of being opposed, as is at present the case, to those of his neighbours, were identified with theirs.

But it is a mistake to suppose that the abolition of the restrictions on importation would be merely innoxious to the landlords. The truth is, that it would be greatly and signally beneficial to them. Not only would the landlords gain by the general improvement that would infallibly result from the freedom of the corn trade, but they would also be relieved from a burden, which, at this moment, presses heavily on their estates, and threatens, at no distant period, to absorb the whole of their rents. It is almost unnecessary to say, that we allude to the Poor-rates. Were it not for the extreme variations in the price of corn, the payments to able bodied labourers, which constitute full three-fourths of the total assessment, might be entirely dispensed with. But so long as we continue to act on a system, which necessarily occasions the most tremendous fluctuations of price, it is quite visionary to think of getting rid of this burden. Wages, though they are ultimately regulated by

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\* We are acquainted with a very fine farm in the South of Scotland that was let in 1811 for 735*l.* a year. It was over-cropped; and, on being relet for three years in 1816, it only brought 59*l.* a year! Innumerable instances of a similar description might be pointed out. And notwithstanding all that has been said and written to the contrary, we are most decidedly of opinion, that it is something worse than absurd to suppose that a system productive of such results can be beneficial to the landlords.

the price of necessaries, do not vary immediately with their variations. Prices, and consequently wages, are reduced by a *succession* of abundant harvests; but wages do not, and cannot rise the moment the harvest becomes deficient, and prices attain the famine level. And if, under such circumstances, the labourers of a densely peopled country like England, where their condition can never be very prosperous, were not partly provided for by extrinsic assistance, the probability, or rather, we should say, the certainty, is, that rebellion and intestine commotion would ensue, and that the security of property would be completely subverted. Those, therefore, who are really desirous of freeing the country from the great and constantly increasing burden of poor-rates, ought above all to direct their efforts to procure the abolition of those restrictions which, by causing excessive fluctuations in the price of necessaries, expose the poor to misery and famine, and disable them for providing for themselves. Abolish the Corn laws, and the abolition of all rates levied on account of the able-bodied poor may be carried with equal facility and security. But if the landlords will not consent to the establishment of a system of freedom, let them not deceive themselves by supposing that the pressure of the poor-rates will ever be effectually diminished. If they will have monopoly, they must take all its consequences along with it; and they must neither murmur nor repine, should every shilling of their rents be ultimately required for the support of workhouses and beggars.

There is another circumstance which has not been noticed in the recent discussions with respect to the Corn laws, but which seems to us to be of the greatest importance in forming a right estimate of their operation — we mean the stimulus given by a high price of corn to the cultivation of potatoes. When there are two species of food obtainable in a country, it is obvious that an artificial rise in the price of the one, has really the same effect on the other as if a *bounty* were given on its consumption. We have been endeavouring to collect authentic accounts with respect to the cultivation of potatoes in Great Britain since 1795; and these, though imperfect, are sufficient to show that it has been at least *tripled* during the period in question. We have also been assured by those who have had the best means of forming a correct opinion on such a point, that the comparatively low range of prices since 1820, is to be in a very considerable degree ascribed to the increased consumption of potatoes. They have already become a more important article than corn in the subsistence of the labouring class in many very populous districts; and were a succession of bad harvests and high prices to take place for four or five years together, the stimulus they would give to the use of the potato would be so great, that it is doubtful whether our prices would not be, in consequence, permanently sunk below the level of those of the Continent. Surely, however, it cannot be necessary for us to say that these results cannot be too much deprecated. Should our people ever become habitually dependent upon the potato for the principal part of their food, they would unavoidably sink to the same miserable condition as the peasantry of Ireland. Under such circumstances, their wages being entirely regulated by the price of the cheapest species of food hitherto raised in Europe, would not enable them to obtain any thing else, when it was deficient; so that, whenever the potato crop failed, they would be left without the means of support; and dearth would be attended with all the horrors of famine!



For these reasons we hold it to be clear, that though foreign corn were for ever excluded from our markets, and though it were possible to prevent them from being overstocked with corn of our own growth, the stimulus that increased prices would give to the growth and consumption of potatoes would effectually prevent them from being maintained, for any considerable period, at a high elevation. We entreat the public to advert to this circumstance; and we feel confident that every landlord who does so, will agree with us in thinking, that it is *of itself* sufficient to show, that in attempting to keep up prices to an unnatural height, the agriculturists have engaged in an enterprise in which they *cannot but fail*; and which must, under any conceivable circumstances, be productive alike of the most serious injury to themselves and their country.

The farmers have still less reason than the landlords to support the existing system; and it is indeed quite apparent, that if they had a clear perception of their own interest, they would join in petitioning for its abolition. Suppose it were possible to maintain the home prices steady at about 80s., still it is easy to see, that it would be infinitely better for the farmers were they to be allowed to settle at the fair and natural level of 50s. or 55s. If prices become stationary at the lower limit of 50s. or 55s., the rent, wages of labour, and other outgoings of the farmer, will all be proportionally adjusted; if they are raised to the higher limit of 80s., rent, wages, &c. will sustain a corresponding increase. It is impossible, however, as it has been repeatedly demonstrated, to raise wages without *reducing profits*; so that it is unquestionably true, that instead of high prices being really advantageous to the farmer, they are distinctly and completely the reverse. The object of the farmer, as of all other producers, must always be to derive the greatest possible profit from his capital; and it is absolutely certain that profits invariably fall as prices rise, and rise as prices fall. The price of wheat in Illinois and Indiana does not amount to one-third of its price in England; and yet an Illinois or Indiana farmer, with a capital of 1000*l.*, would derive as much profit from it as an English farmer would derive from a capital of 3000*l.* or 4000*l.* It appears, therefore, that the real and permanent interests of the farmers and consumers are precisely the same; and that a permanently high price of produce, supposing it could be maintained, would not be less injurious to the one class than the other.

‘A farmer,’ it has been justly said, ‘is as much a capitalist as a shopkeeper, or a manufacturer, and the profits of farming capital must, in the end, be lowered by any cause which lowers the profits of other capital. It is the interest of all capitalists to have the necessities of life, and consequently corn among the rest, cheap; because their labourers will then be contented with lower wages. A farmer’s gain cannot be permanently greater than that of other capitalists. Even during the currency of a lease, a rise in the price of corn is not always an advantage to him; for, if there be a general rise in the price of all other commodities also at the same time, he must give a corresponding increased price for his coats, hats, horses, sheep, cattle, &c.; and unless during the currency of a lease, he has no interest whatever in high prices; because competition will effectually prevent him from deriving more than a very temporary advantage from them. He has, however, in common with all other capitalists, a very strong interest in high profits; and it is not possible

‘ that profits should be high for a long period together, when the necessities of life are dear. A high price of corn, therefore, not only is not beneficial to the farmer as such, but it is positively injurious to him. He is injured in two ways ; first, as a consumer of corn in common with the rest of the community, by having to consume a dear instead of a cheap commodity ; and, secondly, he is injured in a still greater degree, as an owner of capital, by being compelled to give high wages to all the labourers he employs.’\*

We should never have done were we to attempt to recapitulate the various arguments that might be produced to show that the abolition of the Corn laws would be equally advantageous to the landlords and farmers as to the other classes. It is unnecessary, however, to dwell at any greater length on this part of our subject, the arguments we have already brought forward being more than sufficient to establish this identity of interests. But suppose that we are wrong in this conclusion, and that the landlords and farmers would really suffer considerable injury from the abolition of the Corn laws, still we should not consider it as being on that account a measure the less imperiously demanded by every consideration of sound policy. If the Corn laws be really beneficial to the producers, they must, for the same reason, be really injurious to the consumers. If they enrich the agriculturists, by securing them higher prices than they would obtain under a free system, they must, to the same extent, impoverish the manufacturing and commercial classes, who are compelled to pay these artificially enhanced prices ; while, by raising the rate of wages, they must lower the profits of stock, and operate to force capital out of the kingdom. Nothing, indeed, but the extreme importance of the subject could induce us to stop for a single moment to argue with those who suppose that high prices can, under any circumstances, be advantageous to a nation. To facilitate production, and to make commodities cheaper and more easily obtained, are the grand motives which stimulate the inventive powers of genius, and which lead to the discovery and improvement of machines, and processes for saving labour and diminishing cost ; and it is plain that no system of commercial legislation deserves to be supported which does not conspire to promote the same objects. But instead of promoting, the Corn laws openly and violently counteract them. By preventing the importation of corn from the cheapest markets, they raise its price, and force a large proportion of the capital and industry of the country to engage in a comparatively disadvantageous employment. Such a system cannot be maintained without causing immediate injury and ultimate ruin. Instead of being advantageous, high prices are in *every case* distinctly and completely the reverse. The smaller the sacrifice for which any commodity can be obtained, so much the better. When the labour required to produce, or the money required to purchase, a sufficient supply of corn is diminished, it is as clear as the sun at noon-day that more labour or money must remain to produce or purchase the other necessities, conveniences, or amusements of human life, and that the sum of national wealth and comfort must be proportionally augmented. Those who

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\* ‘ Cheap Corn best for Farmers,’ a letter to G. H. Sumner, Esq. M. P. by one of his Constituents — said to be Henry Drummond, Esq., one of our ablest economists, and the founder of the Chair of Political Economy in the University of Oxford.



suppose that a rise of prices can ever be a means of improving the condition of the country, might, with equal reason, suppose that it would be improved by throwing its best soils out of cultivation, and destroying its most powerful machines ! The opinions of such persons are not only opposed to the plainest and most obvious principles of economical science, but they are opposed to the obvious suggestions of common sense, and the universal experience of mankind.

In order to simplify the consideration of this great question, we have argued thus far, on the *supposition* that there is nothing in the circumstances under which the agriculturists of Great Britain are now placed, or in the public burdens imposed on them, that could unfit them for withstanding the free competition of foreigners, or entitle them, in any view of the matter, to claim that a higher duty than 5s. or 6s. a quarter should be imposed on foreign wheat, and proportionally on other foreign corn when imported. But as this is a point of great practical importance, we shall examine it somewhat in detail.

I. In entering upon this examination, it is necessary, in the *first* place, to distinguish between the landlords as such, and the growers of corn. Rent being the excess, or the value of the excess, of the produce obtained from the superior lands of a country, over that portion of their produce, or its value, that is required to defray the expenses of their cultivation, and to yield the farmers the common and ordinary rate of profit on their capital, it is obvious that it is altogether *extrinsic* to the cost of production. And therefore it results, that such taxes as fall exclusively on rent, might be augmented so as to absorb it entirely, without in the slightest degree affecting the price of corn. Nothing can affect its price, unless it affects the cost of its production ; but rent being a surplus which is over and above that cost, it is quite clear, that it is of no consequence to a cultivator whether the rent which he pays be received by a landlord or a tax-gatherer. Hence, though it should appear that the landlords of this or any other country are heavier taxed than any other class of the community, that circumstance would not afford the shadow of a ground for giving the home-growers of corn a protection against foreign competition. If the opening of the ports should have the effect to throw any *unusual* burden on the landlords, or to impose a sacrifice on them which it does not impose on the rest of the community, they would be entitled to a compensation. But if the opening of the ports would not affect the relative condition of the landlords — if it would have no influence on the burdens which have been long imposed on them, and under which their estates have been acquired, and the existing interests of the country grown up — and if its only effect would be to place industry on a more secure foundation, to avoid the misapplication of a large amount of capital, and the annual loss of from *fourteen* to *fifteen* millions — where is the individual who will contend that the landlords have any right to claim that a duty should be imposed on foreign corn, in order to protect their interests ?

II. With respect, in the *second* place, to those taxes or burdens which affect the cultivators of the soil or the producers of corn, they may be exceedingly heavy without entitling them to a protection from foreign competition. It must be remembered, that *all imported corn must be paid for, either directly or indirectly, by the exportation of some species of manufactured goods* : and it is clear, on the first blush of the matter, that the home producers of corn have not the semblance of a claim to a

protecting duty on the importation of foreign corn, unless they can show that the taxes or public charges affecting raw produce *exceed* those which fall on manufactured goods. We are no apologists for heavy taxation; but however oppressive it may be — though it were to abstract a fourth or a third part of the income of every individual — still if it affected them all equally, it would leave the relative values of the commodities produced by them exactly where it found them; and if it did this, it is clear to demonstration, that it could not possibly render any particular class less able than the others to withstand the unfettered competition of foreigners, and could not, therefore, entitle them to a protecting duty. But if higher duties were laid *on a particular class of commodities*, the case would be different. Suppose, for example, that the various duties affecting manufactured commodities amount to only 10, while those affecting the raw produce raised by the agriculturists amount to 20 per cent.; it is obvious, that, in order to maintain the agriculturists in the same situation as the manufacturers, the price of raw produce must rise 10 per cent. higher than it would be, were it not loaded with that excess of duty; and it is further obvious, that the exclusion of foreign grain, by enabling the cultivators to diminish the supply, enables them to raise the price, and to throw the burdens peculiarly affecting them on to the consumers. In the event, however, of the ports being opened to the importation of all sorts of foreign corn free of duty, the agriculturists would be deprived of the power of limiting the supply of corn, and, consequently, of raising their prices, so as to indemnify them for the excess of burdens by which we suppose them to be affected. The 10 per cent. excess of duty affecting corn raised at home, would then really operate as a bounty on the importation of that which was raised abroad; and if it were not defeated by a protecting duty of 10 per cent., the agriculturists would be placed in a relatively disadvantageous position; and such of them as occupied the poorer description of lands would be driven from their business.

It appears, therefore, that if the growers of corn are only taxed to the same extent as the other classes of producers, they have no claim, whatever may be the absolute magnitude of the burdens laid on them, to a protecting duty. But if they are *more heavily taxed*, they are entitled to demand that a duty should be charged on all foreign corn when imported, equivalent to the *excess of duties affecting their produce*, as compared with those affecting the produce of the manufacturers. Such a duty, by fitting all classes equally to withstand foreign competition, will preserve them in the same relative situation after the opening of the ports as previously; and will treat all parties, as they ought ever to be treated, with the same equal and impartial justice.

Putting, therefore, the question with respect to protection on this ground, the only tenable one on which it can be put, let us next proceed to inquire whether the agriculturists are really more heavily taxed than the manufacturers or merchants.

The taxes which seem peculiarly to affect the agriculturists, and on the pressure of which they found their claim to a protecting duty, are Tithes — supposed to amount, Ireland included, to about four millions and a half a year — the Land tax amounting to two millions — and Poor rates and other county burdens, computed at about seven millions more — making, in all, about *thirteen* millions.

But, on examination, it will be found, that by far the largest proportion of this sum *has invariably been paid out of rent*, and that it has



really no more to do with the cost of producing corn than the taxes laid on tobacco or nutmegs. And, *first*, with respect to tithes:—It has been fully established by Mr. Ricardo, that *if all, or nearly all the lands of a country were subject to this charge*, it would, in the event of foreign corn being excluded, or loaded with an *ad valorem* duty of 10 per cent., occasion an equivalent rise in the price of corn, and would, in consequence, fall wholly on the consumers, and not on the landlords or occupiers. And, conformably to this principle, it has been argued, that if the ports were now to be opened for the importation of foreign corn free of duty, the cultivators, unable, by limiting the supply, to raise prices, would relinquish the tillage of bad land; which would have the effect to reduce the rent of the landlords, and to throw a burden wholly on them that has hitherto been borne equally by all classes. But although the principle advanced by Mr. Ricardo holds under the circumstances he has supposed, it is essential to observe that *these are not the circumstances under which the agriculturists of Great Britain are, or ever have been placed*. So far, indeed, is it from being true that all, or nearly all our lands are affected by the burden of tithe, that it appears that about *a THIRD part* of the land of England and Wales is exempted from it \* exclusive of considerable tracts in Ireland, and of the *whole* of Scotland! And such being the case, it is quite idle to suppose that the cultivators of the tithed lands have had any power so to narrow the supply of corn brought to market, as to throw any considerable portion of the burden of tithes on the consumers. Had the extent of tithe-free land been inconsiderable, they might have thrown the greater part of it upon them; but when they have had to come into competition, not with a few, but with a third of the cultivators of England, and all those of Scotland, it is obvious that the *price of corn must have been regulated by the price for which it can be raised on the last lands cultivated that are free from tithe*, and not by what it could be raised for on the last lands cultivated that are subject to that charge. It appears, therefore, that if the whole land of the empire had been subject to tithes, the proposition advanced by Mr. Ricardo, that tithes do not fall on rent, but on the consumer, would, under the existing restraints on importation, have been strictly true. Inasmuch, however, as this is *not* our situation—as a very large proportion of our lands are not subject to tithes, and the cultivators of the tithed lands are, in consequence, without the means of limiting the supply and raising prices, the proposition advanced by Dr. Smith, that tithes constitute a portion of the rent of the land, and that their payment has no effect on the price of corn, is most certainly correct. Neither, it is to be observed, is this a burden recently imposed upon landlords. Tithes have existed for a thousand years; and having been constantly paid out of rent, it is clear to demonstration, on the principle previously laid down, that the landlords cannot urge the existence of this burden as a reason why a corresponding duty should be laid on foreign corn imported. Tithes form a portion of the rental of the country appro-

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\* According to a statement given in the excellent article on England in the Edinburgh Encyclopedia, (vol. ix. p. 32.), the total annual value of all the land of England and Wales, in 1815, amounted to 29,476,850*l*. And it also appears, that lands of the annual value of 7,904,378*l*. are wholly tithe free; while lands of the annual value of 856,183*l*. are tithe free in part, and lands of the annual value of 498,823*l*. pay only a low modus.



priated by the State, to whom they really belong, to the support of the Church. And though they may be, and we believe with Dr. Paley really are, a most noxious institution, they are in no respect more injurious to the landlords than to any other class of the community. Every estate affected by tithe was acquired with a full knowledge that it was liable to that burden, or, which is the same thing, that the public, or, by its permission, the Church, was entitled to a *tenth part* of its gross produce; and when such is the case, it would not, it is evident, be more absurd to impose a protecting duty on foreign corn because copyholders have quit-rents to pay to the lord of the manor, than it would be to impose it because the holders of certain lands have been obliged, for the last thousand years, to pay a tithe to the Church.

That the Land-tax is at this moment, and has always been, a tax on rent, and has no effect on the price of corn, is a fact of which there cannot be the slightest doubt. It was originally imposed in 1693, a new valuation of all the lands in the kingdom having been made in the previous year. According to that valuation, it was found, that a tax of *1s. on the pound of the ascertained rental* afforded a clear annual revenue of 500,000*l.* No change has ever been made in the valuation of 1692. The tax, which was at first an annual one, has generally been as high as 4*s.* a pound of the valued rent. In 1798 it was made perpetual at that rate, leave being at the same time given to the Proprietors to redeem it.

Such being the nature and operation of the land-tax, it is obvious, for the reasons already stated, that its existence forms no ground whatever for the imposition of a duty on foreign corn.

The only other burden supposed peculiarly to affect the agriculturists, consists of the Rates levied for the support of the poor, and for other public purposes. But, although we are inclined to think that this burden really presses heavier on them than on any other class, the difference is not very material. Houses, workshops, &c. contribute equally with landed property to the support of the poor: And it should also be observed, that the amount of the rates is by no means a fair criterion of the real weight of this burden; for, owing to the system adopted throughout all the Southern counties of England, of paying wages out of poor-rates, the farmers, it is commonly understood, gain as much, by making the occupiers of houses and villas contribute to the support of the labourers employed by them, as they lose by being more exposed to the rates. Seeing, therefore, that all sorts of fixed property, as well as land, are made to contribute to the rates, that these rates have been improperly enhanced in many counties by the attempts of the landlords and farmers to make those who do not employ labour bear a part of the charges of those who do, and that the abolition of the Corn laws would, as we have already seen, enable the greater part of the rates to be dispensed with, it is clear that the duty which the agriculturists are entitled to claim, on the ground of their being peculiarly affected by the poor-rates, must be very small indeed — perhaps not more than *one per cent. ad valorem*.

However, we would rather err on the side of too much protection than of too little; and therefore, instead of proposing that an *ad valorem* duty of *one or two per cent.* — which latter is certainly all that the agriculturists can justly claim — should be imposed on foreign corn imported, we should not object to its being made as high as *ten or twelve per cent.* We have already seen, that the average price at which foreign wheat might be imported into England in ordinary years,



would be from 48s. to 55s. a quarter; and we would therefore beg to suggest, in order to get rid of the trickery and fraud inseparable from the average system, that the *ad valorem* duty of 10 or 12 per cent. should be converted into a fixed duty of 5s. or 6s. a quarter on wheat, and other grain in proportion — a power being at the same time granted to the Privy Council to suspend the duty whenever prices in the London Market exceed 65s. or 70s. So high a duty would undoubtedly be much too favourable to the landlords. But the vast advantages that would result from the freedom of the corn trade, and the total abolition of all restrictions and fetters on importation, ought to induce the public to waive all objections to its imposition. Its magnitude, too, would take from the landlords every pretence for affirming that they had been harshly treated, or that their interests had been sacrificed to those of others. If they should object to so reasonable a measure, their motives would be obvious to the whole world. It would immediately be seen that they had resolved to place and maintain *their interests, in direct opposition to those of the community in general*; — that they had determined to purchase a hollow and imaginary advantage, by supporting a system of domestic policy which must at no distant period involve them in that ruin which it will assuredly entail on the country.

We believe we might now take leave of this great question; but before doing so, we shall bestow a few words on an argument advanced by the agriculturists, on which they have laid much stress. They allege, that all the principal branches of manufacturing and commercial industry are protected, by means of prohibitory duties, from foreign competition; and they contend, that it is only fair and reasonable that agriculture, which is the most important branch of industry, should enjoy the same protection and favour as the rest. We shall endeavour briefly to ascertain what degree of weight ought to be attached to this rather plausible statement.

In the *first* place, we have to observe, that a prohibition against importation from abroad, or a protecting duty, is plainly of no value whatever to the producers of such commodities as are exported, without the aid of a bounty, to other countries. Those who can undersell foreigners in the *foreign* market, have most certainly but little to fear from their unfettered competition in the *home* market! And such is the case with the vast majority of the manufacturers of Great Britain. A prohibition against the importation of foreign manufactured goods is really of no more consequence to them, than a prohibition against the importation of foreign corn would be to the agriculturists of Poland or Russia. All our principal manufactured goods — such, for example, as woollens, cotton stuffs, and yarn, hardware, leather, &c. &c., can be produced cheaper here than in any other country; and the proof of this is, that we are able to export them with profit, not only to our immediate neighbours, but to the remotest districts of China or Hindostan. The duties intended to protect them may therefore be repealed without the slightest inconvenience; they are, to all intents and purposes, a mere dead letter; and serve only to encumber the statute-book, and to afford, as in this case, the shadow of an argument to real monopolists.

Such, too, we are happy to say, is the view that is now almost universally taken by our most intelligent manufacturers of the operation of the laws restricting the importation of foreign manufactured goods. In 1820, petitions were presented to Parliament from London,

Liverpool, Glasgow, Manchester, Bristol, Leeds, and all the other great commercial and manufacturing towns throughout the empire, in which the petitioners distinctly and strongly stated their conviction, we quote the words of the London petition, of the ‘impolicy and injustice’ of the restrictive system; and prayed for ‘*a total repeal of all such prohibitions and duties as had for their object to exclude foreign competition.*’ No sooner had Messrs. Robinson and Huskisson been placed in those high situations which they now fill with so much credit to themselves and advantage to the country, than they endeavoured to give effect to the prayer of the petitioners. In consequence, the system of absolute prohibition has been almost wholly abandoned; and a system of *ad valorem* duties has been, in most instances, adopted in its stead. Thus, for example, by the Acts passed in 1824–5, the ports of Great Britain are opened to the importation of *foreign cotton manufactured goods*, on their paying an *ad valorem* importation duty of TEN per cent. Foreign *woollen* goods are admitted on paying a duty of 15 per cent. Foreign earthen-ware on the same duty as woollens. Foreign cast-iron on a duty of 10 per cent.; and wrought foreign iron on a duty of 20 per cent., and so on.

It is in vain, therefore, that the agriculturists endeavour to apologize for the restrictions on the importation of foreign corn, by telling us, that they are required to place agriculture in the *same* situation as the other branches of industry. The restrictions on the importation of foreign manufactured goods are almost universally without effect; those for whose protection and advantage they were intended, have themselves petitioned Parliament for their abolition; and, in point of fact, they do not at this moment *exceed*, on the most important articles, the protection we have proposed granting to the agriculturists.

But there are yet other, and still more cogent reasons than any previously stated, why the Corn laws should be abolished. The sustenance of the people is certainly the very last thing with which a wise and prudent Government would choose to tamper. We have no hesitation, indeed, in avowing it to be our decided opinion, that it will be found to be impossible to maintain the Corn laws without deeply endangering the public tranquillity and the security of property. NESCIT PLEBS JEJUNA TIMERE. Mobs and popular outrages are the necessary consequence of a dearth of corn. It must be obvious to every one, that were our restrictions and prohibitions abolished, the price of corn in a country, so rich and industrious as England, so well supplied with merchandize suited to the wants and desires of every people, could never rise considerably above the level of the surrounding markets. When, therefore, prices rise above this their natural limit, as they are sure to do under our present system, whenever the home harvest is in any degree deficient, the cause of the high price will be obvious to the whole world. Every one will see that the dearth is not real, but artificial:—that ‘it is not by the dispensations of Providence—dispensations which it would be unavailing to canvass, and impious to censure’—but by the perverse regulations of man that he is oppressed, and his means of existence compromised. Those who are prepared to defend such a system, must be prepared to meet the bloodshed and commotion of which it cannot fail to be productive. Is it in the nature of things, that a vast manufacturing and commercial population, like that of England, should continue quietly to submit to a system which narrows the market for their



produce, at the same time that it forces them to pay 70s. or 80s., or perhaps 90s. or 100s., for the same quantity of bread they might otherwise obtain for 50s. or 55s.? Sooner or later, this system must be abandoned. But the longer it is maintained, the more will the public mind be alienated from the Legislature, and the more will the spirit of disaffection scatter its seeds and spread its roots throughout the country. The experience of 1817, 1818, and 1819, should not be thrown away. The restriction on importation was the sole cause of the oppressively high prices of these years; and it was these high prices that drove the manufacturing classes to despair. That rendered them the ready dupes of violent and designing persons, and produced those outrages that were productive of so much mischief.\*

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### GAME LAWS.†

‡ THE present Game Laws are chiefly objectionable on four grounds: 1. The confusion and multiplicity of the statutes still in force. 2. The unjust principle upon which they go. 3. The unrelenting execution with which the nail is driven to the head. 4. The amount of evil, not more distressing than alarming, that is produced by them. If a reader were inclined to laugh upon a subject which is connected with so many serious considerations, let him turn to an excellent work, (Tyrwhitt's and Tyndall's Digest of the Statutes,) and in the columns of extravagant and contradictory legislation which follow each other under the article 'Game,' he will find as much amusement as at half price in any theatre. The number and intricacy of these statutes seem as much as any thing to have persuaded Blackstone, that 'the crime itself was of too questionable a nature' to call for many observations. Whilst 'false grammar' in no fewer than six places, besides other mistakes, in one single act, led him into a suspicion which he declines pursuing, of 'what denomination of persons were probably their penners.' Difficulties no less invincible have been in like manner imposed upon the judges in construing the famous enactment of Charles II. concerning qualifications, and in expounding that of William III. about dissolute persons. A further source of embarrassment has arisen from the aforesaid 'denomination of persons' not caring to examine or bear in mind the laws already in being, or afterwards to take the pains of reconciling the new and old enactments. Especially since, in their reluctance to surrender

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\* Of the articles in the Edinburgh Review on the question of the Corn Laws, I have selected that which I conceive to be the best; the most ample in information, and the most conclusive in argument. In a note to the new edition of *Adam Smith's Wealth of Nations*, edited by Mr. M'Culloch, that gentleman acknowledges having written this and several other valuable dissertations in the Edinburgh Review, on subjects connected with Political Economy. The Corn Laws are ably discussed in Vol. v. p. 190. Vol. xxiv. p. 491. Vol. xxvi. p. 135. Vol. xxxvi. p. 452. Vol. xli. p. 55.

† Report from the Select Committee of the House of Lords, appointed to take into consideration the Laws relating to Game, 1828. Vol. xlix. p. 71. March, 1829.

‡ I have omitted the historical account of the origin and progress of the Game Laws, which forms the introduction to this article.

any possible penalty lurking in the obscure and neglected corners of the Statute Book, all former penalties are usually declared, by a special proviso, to be still in force. We have heard the judges reproved for bringing the parliament into contempt by sarcasms on this species of legislation; but surely, considering they are bound to interpret the law, they are entitled, without the charge of being over classical or expecting, to grumble a little, when it is tossed to them in a state where they can neither grope their way through the words or the meaning. In point of fact, there are only three statutes, all of which are recent and too modern, in daily use; the Certificate Act, (52d G. III. c. 94,) the Night Act, (57th G. III.,) and the Qualification Act, or 5th Anne, c. 14; nine-tenths of the convictions being under the last. The necessity of consolidation, therefore, is less urgent, but its propriety not less clear, as urged upon them long ago by their common tutor, Dr. Burn. Yet mere consolidation of this chaos will not do. Its evil principle must be extracted, or we shall never frame a system of order out of it. This can only be attained, and the minds of men put in sympathy and co operation with a subject that has been in itself long diseased, and on which, on all sides, much delusion has been encouraged, by our making it at length sufficiently honest and intelligible to stand explaining.

Before turning to inquire what is the principle by whose adoption this object is most likely to be accomplished, a few words may be properly interposed respecting the jealousy entertained of these laws, from the mode in which they have been too frequently executed. The language of many of the judges, in cases of considerable standing, about 'unremitting vengeance,' &c. proves, that this part of the grievance is indeed no novelty. Blackstone speaks in his day, just as feelingly as he could at present, of the severe punishments implacably inflicted, and of miserable delinquents making their peace with the Lord of the Manor! In minor cases of ordinary poaching, considering how our judicial establishments are still divided and arranged, we admit it would be difficult to make out any other sufficiently cheap and accessible tribunal. At the same time, the *circular* argument in fashion, whenever this part of the question is meddled with, is not likely to satisfy a very resolute sceptic: for Game Laws, it seems, are necessary, in order that country gentlemen may be induced to reside in the country; and it is necessary that country gentlemen should reside there, in order that they may administer the Game Laws! Of all descriptions of offences, these, perhaps, are the very last in which it is desirable that men, living rather too much beyond the reach of newspaper reporters, should be judges in their private room,—of causes, both in principle and feeling, substantially *their own*. However, it is an unnecessary aggravation of the hardship of such a jurisdiction, to fix an absolute penalty at the rate suitable to the worst offenders; and to withhold from the convicting Justices that power of mitigation which we may be confident never would be abused. The Qualification Act gives 5*l.* penalty, and three months' imprisonment on non-payment. But cases must come frequently before a magistrate, where an apprentice, or a farming boy, without being a regular poacher, has brought himself within this act. If the prosecutor cannot be induced to let it drop, upon the party paying the expenses, but will press for a conviction, the magistrate has no discretion, and the warrant of distress must issue, or the party be committed. It cannot but too often happen, that ten or twenty shillings



would be quite penalty sufficient: in which case, the friends would come forward, and assist in saving the lad from the corruption and degradation of a prison. The next statute, in point of common use, is the Certificate Act, which is liable to the same objection. There is a 20*l.* penalty, mitigable only down to 10*l.*; and besides the penalty, the party becomes liable to take out the certificate, which is in fact adding 3*l.* 13*s.* 6*d.* The imprisonment, however, under this act, is discretionary; the only provision being, that it shall not exceed six months. It is to be feared that there are many magistrates who always act upon it to the full extent. But to any one who considers what a sum even 5*l.* is among the labouring class, it must be very obvious that these are penalties not calculated to reclaim young offenders, but to drive them to despair; and the imprisonment is out of all proportion great, compared with the sentences inflicted at the Sessions for positive felonies. The unpopularity of our Game Laws is very much ascribable to this disproportion of punishments to offences, which pervades them throughout; and a good deal of this unpleasant feeling would probably be done away, by the substitution of more moderate fines.

Lord Wharncliffe's late modification of the Transportation Act against night poaching, by which the jurisdiction is taken away very much from the Justices, and sent to the Assizes, only came just in time to remove a great reproach, and recall the public confidence. It was impossible to resist the painful impression made by the crowded state of the bench upon those trials, contrasted with the very thin attendance when real business was to be done. In respect of the punishment, too, when the extreme sentence was fought off, the more judicious magistrates could only effect it by compromising the difference with their sterner brethren, and by consenting to a longer imprisonment than they really approved of. In many counties, this extreme sentence had been actually enforced with so little discrimination, that considerable management in the chairman was necessary to bring juries to do their duty, even in the plainest cases. We know that an association was formed, of which the condition was, never to convict a prisoner under it; and a member of which, (a schoolmaster,) carried his point by making himself an abatable nuisance to his fellow-jurors. Not only has this violence overreached itself by the re-action it has thus raised up among those on whom the execution of the law must after all depend, but it has been clearly shown, that the armed resistance of night poachers to their apprehension, (which has since gone such disastrous lengths,) began by their dread of transportation. Lord Wharncliffe's bill was imperatively called for by the indiscretion (to use the mildest word) with which magistrates had driven this formidable weapon to the hilt upon common occasions. The additional expense which had thus been rendered necessary, by the only alternative, that of carrying on the prosecution at the Assizes, is so heavy, that it will deter most prosecutors from proceeding. Impunity so bought is objectionable enough; but it is infinitely better than the other sort of impunity: And such was the choice forced upon the country by the scenes presented to it at Quarter Sessions.

One of the most powerful causes by which men are prevented from applying their common-sense on practical questions to the state of society before their eyes, where alone they can expect to act to any useful purpose, is the respect we pay to the supposed authority of former times, although we may be in a better situation for forming a

correct judgment, and even although the circumstances are entirely changed. The disqualification laws, however unjustifiable as a deviation from the course which reason and general precedents could have pointed out, have doubtless found many partisans, both at first and since, among those who were bewildered by opposite glosses upon the broad and popular proposition, that game was part of Nature's catalogue of things left in common as *nullius bona*. Nothing, surely, can be more thoroughly waste time than going back, for any purpose of political argument, to the Iroquois age, when it is said of man himself, that 'wild in woods the noble savage ran.' It is sheer folly to refer to Nature upon this subject, either for an instinct or a definition. The assertors of an inalienable right to freedom on the part of animals *feræ naturæ*, may ballot their own committee from among the keepers of menageries and aviaries. The present times have little interest in the comparative docility for domestication which Adam after the fall, or Noah in his ark, might find between the different creatures. They have as little concern in any capricious test which may have been assumed by Nimrod respecting what was and what was not to be considered game, as with Pope's later question, 'As beasts of nature may we hunt the squires?' Blackstone, to be sure, derives from our Norman pedigrees their predominant passion for the field; out of which one of the old chroniclers made a relationship for the Conqueror himself: 'He seemed to love them so, he might have been their father!' We are not prepared to fight the battle of privilege and prejudice — by which, as it were in right of some peculiar strain of blood, a sort of feeling of animal legitimacy is set up, and as much horror is manifested at the notion of property being predicable of, or a power of sale exercised over, a partridge, as Mr. Wilberforce could express were it the case of a human being. The country gentleman who could not bear the sight of game publicly exposed for sale in the markets at Paris, 'because it looked so unnatural,' was probably the same person who, in talking over the Usury Laws, began by assuming that his adversary would not deny, that five per cent. was the *natural interest* for money! There is nothing in nature to guide us towards the formation of such a scale. The classification must vary in every country; and man himself has not always been left out of it. War has been supposed our state of nature; and chivalry carried the rights of possession under it pretty far. The Commons, 45th Ed. III., petition the King for a law to explain, whether the French garçons and valets, who had then been many years prisoners in England, were to be considered as prisoners or *villeyns*. Coke would have required that his student should note the diversity between the absolute property which the law of that day gave in a villein, and the qualified property it allowed in deer and rabbits.

The title of occupancy, by which the Roman law gave wild creatures of all sorts to the taker, may be strictly true on the banks of the Magdalena: but it is only nominally so, and by its vagueness can lead only to misunderstanding, when it is carried on and applied to a state of things where an exclusive interest throughout in private property is established, against whatever trespasser. In such a case, it is trifling with words to argue that the proprietor of an estate, on which nobody can come without his permission, is not as much proprietor of the animals upon it whilst they stay there, as the owner of



a cage with a bird in it, which cage nobody has a right to meddle with except himself, is owner of the bird within. If the same rule may no longer govern both cases, after the animals and the bird shall have chanced to move their quarters and escape, it is no reason why it should not hold good whilst they continue, the one on the land, the other in the cage. It is ridiculous to suppose a different rule or degree of property in the eggs, or the young that cannot leave the nest, than in the old birds that are sitting on them; because the latter are free agents, and, as soon as they like, have it in their power to fly away. The title of privilege, in short, within the limits that it ever obtained in England, was harmless enough, in fact, except for the severity of the punishments connected with it. But the childish pretexts, half sentimental, half statistical, on which our writers have laboured some sort of theory for this partial exercise of it, show the aversion with which they shrunk from the appearance of countenancing, what yet the neighbouring example of France must have made familiar enough to our Kings—the despotic principle of a general royal title over game. Our law, we have already stated, gave a man very little more under the title of privilege, than what he would have had under that of property. Take, however, any period of society, whether barbarous or civilized, and if privilege is regarded as giving a right independent of, or in opposition to, either occupancy or property, it is equally hollow and unjust. In a country and among a people that are alike uncultivated, and where occupancy, accordingly, is the reasonable title, privilege is nothing but the sullen pride which grudges others the distinction even of an amusement in common with ourselves. In a country which has improved so far, that game, if maintained at all, must be maintained out of the fruits of artificial agriculture, a privilege which supersedes the title of property, is the privilege of rapine and extortion.

An attempt to carry these two principles into practice, in an age when human labour has given most of our very commons an air of culture, such as hardly found its way into the garden of a Plantagenet, would prove their unsoundness better than any reasoning. The property in these things is, in such a case, necessarily drawn to the property in the soil. There can be no great difficulty, in spite of the vagueness or imperfection of the language ordinarily used, in showing that game is just as capable of being made property for every available purpose as other things, though more liable to be lost without any act on the part of its temporary owner; and that in a country like England, the interest that it should be considered so, as much as either sheep or poultry, is only a question of degree; for we are ready to concede to the partisans of occupancy, that the first of these propositions by itself is not enough to justify the making any given thing private property. Whilst Blackstone would destroy the title of occupancy altogether, by supposing that the law, to prevent quarrels, has vested in the King whatever would otherwise be without an owner, we always have considered this indefinite apprehension a great deal too remote and summary, to overrule the more logical conclusion that Paley draws from the common principle, namely, ‘That nothing ought to be made exclusive property which can be conveniently enjoyed in common.’ Any general question put respecting this metaphysical or ethical right of property as an institution, seems only another form of asking whether society is to exist; certainly whether it is to exist



with any probability of improvement. The particular question, What shall be made property, and by what several titles it shall be acquired? is one that may, and will be answered in divers ways, according to the wisdom or good pleasure of each community. The reasonable test, however, whether any particular thing shall be thus appropriated, cannot, in the absence of collateral considerations, be any other than whether it will be thus enjoyed to the most advantage.

The necessity of property is of course pre-eminently true in land, from its great improvableness, and from its being so readily identified by boundaries, owing to its stationary quality. It is much the same with goods, which are in all instances mixed up with human labour, more or less—a thing which we all feel that no man likes or means to give for nothing. They are also easily recognized and challenged, by being so far immoveable that they will remain in the same place, if left to themselves. The same principle holds equally good of animals that have been domesticated, whether to be used for food, to be employed in husbandry, or (we speak with all due respect for the scepticism of the English law, or of Mr. Justice Yates,) which are kept merely for pleasure. It applies as long as they continue tame; and although not always stationary on the premises, yet retain the *animum revertendi*, or habit of returning home. Of course, the owner ought to be answerable in damages for any mischief done by what belongs to him, and this without requiring proof of his knowledge of their mischievous dispositions, (what lawyers call a *scienter*,) just in the same manner as he is civilly liable for any injury committed by himself. Much of the comfort and pleasure of daily life depends on this species of appropriation. Such animals are sufficiently commorant to profit by and repay human care; and their owner has not more trouble in tracing, or half so much doubt in swearing to, his cattle or his dog, as to his spoons.

The last question, respecting property, brings us to those animals that have never been at all domesticated, or having been so once, have become wild again. The sole and exclusive possession of land must, in point of fact, secure to its owner the possession also of the game, which no one else has the power of coming upon the land to take. But (independent of this indirect consequence, by which the disability of every other human being proves an ability in himself, by a sort of *reductio ad absurdum*) the very same consideration which establishes property in domestic animals, extends over and comprises these also within its principle, in the present state of society. Whatever might be the case when three-fourths of England was wood and waste, these animals now live chiefly on the produce of human labour, in one shape or another. They are not of less value in themselves, because there is a still higher pleasure in the pursuit of them. The proprietor of this produce makes claim, therefore, through the food by which they are maintained. Unless this claim is acknowledged, of course he will refuse to go on maintaining them at his expense, for the profit of Black George, or the amusement of the apprentices of the nearest town. Some management and forbearance, such as exclusive property alone can give an inducement to observe, are required to keep up the breed, or there would soon be none for any one to enjoy. Without this, the oyster will vanish during our contention, and leave not even its shell to divide between us. The excluded, consequently, are only now in the same plight in which they soon would be, if game was thrown open to every gun. This is alone enough to bar any complaint on their



part ; for the dog in the manger could himself in such a case scarcely presume to murmur at an arrangement, the effect of which merely was, that others were better off, and himself no worse. The temper that would kick down the table, or let the harpies loose upon a feast, where we ourselves happen not to have a chair or an invitation, has no right to expect to be humoured by the law. Therefore, the jurisprudence of a people, like a just master of a family, in respect of such things, as though at one time properly left at large, can no longer be competently enjoyed without temporary prohibition or entire appropriation, is entitled, nay, indeed, is bound, to pursue that course. The public will only be provoked to dispute the justice of this arrangement, when they find that the key so given is turned upon themselves, and that this possession is perverted into a haughty exclusion of them from the enjoyment of it, under the ordinary exchanges by which society subsists.

Supposing the advantages accruing from the institution of property, to comprehend pheasants and partridges as much as any other stock upon a farm, nevertheless, the party asking of the legislature that it should be regarded as such, must show that the right can be exercised without more than countervailing embarrassment and risk. It will be in vain that a general right of property, in things of this description, may exist in argument, if means do not exist also by which it can be safely realized in fact. The vagrant habits which carry them into adjoining estates,—the impossibility of tracing their history with tolerable accuracy and keeping an account, by reference to their journal, of the comparative rate at which the different properties in a neighbourhood have contributed towards their board and lodging—the difficulty of identifying them, or of reasoning on the *animus revertendi* of creatures, upon whom we have not the hold that a dovecot, a bee-hive, or even a rabbit-burrow, give us upon their respective tenants ;—all concur in restricting our notion of property in them, and binding it to their connexion with the soil. Thus, if on one hand we ought not to be liable for any injury done by them upon the land of another, because our property in them has ceased by their migration ; so, on the other, such other person is entitled immediately to take the law, together with the trespasser, into his own hands. If, under the fiction of a qualification, a law unfortunately should exist to intercept this summary justice, it is bound to give instant compensation for such injury. The French Courts, however, find it possible to combine legal satisfaction with the right to abate the nuisance, in self-defence, when the last is an imperfect indemnity. In 1819, M. Dupin obtained a judgment from the Cour Royale against the civil list, for damages to the amount of 12,000 francs done to the crops of a subject, by boars escaped out of the royal forest. Now boars were hunted in our woods as late as Henry VI. (Twyne de rebus Angliæ); and hares even may do a farmer almost equal mischief. Mr. Hunt (51st Report) mentions a single parish in Wiltshire where they annually destroy above 1200 sacks of wheat, and the landlord allows for the loss at the rate of two sacks per acre. Were a complaint, like M. Dupin's carried by a farmer to our assizes, the judge would only laugh at the rustic for not knowing that game was *feræ naturæ*, in respect of which neither claim nor liability could exist on the grounds of another person. The French are, again, much more jealous in their distinctions respecting another member of this gipsy family than ourselves ; it is one that lost also its feudal immunities at the Revolution :—we mean pigeons. Both laws give pigeons a general letter of safe-



conduct, in consequence of the house over their heads, and the greater cost and care bestowed upon them. But in France, the municipality is intrusted with fixing, according to the season, the day on which the dovecot is to be closed; after which, or, in case that is omitted, any one may kill whatever pigeons are found trespassing on his grounds during seedtime or harvest. It is a creditable distinction in one of the statutes of Charles II. that, when giving additional security to rabbits in a warren, it was considerate enough to except the owner of the bordering grounds from the penalties for taking them there. Our 2d Geo. III. disdains such discriminating niceties; and the owner of a field, if he is not also owner of a dovecot, shooting his own pigeons, is liable to a fine of 20s., although he may have shot at them while actually gorging on his corn. On the whole, we believe the small proprietors of England would be content to abide by the doctrine of our old cases. These went on the probable difficulty of knowing from whose property the trespasser came last, and assumed the farmer would not care to enter on the question, when he had once knocked the stranger on the head. The distinction that game\*, like alien subjects, owe only a sort of temporary and local allegiance — complete whilst they stay, at an end when they leave us — is enough for all practical purposes. There is no person who can put in any colour of claim, except the landholders, — for the whole must be their joint and undivided property; and the average will strike itself fair enough, if every man takes that portion which may happen for the time being to be found upon his land. In case of any unfortunate preserver who is edged in by an ‘*O si Angulus iste*,’ he must either pay the fancy price which its locality confers upon it, or, like other owners, submit to the inconvenience of being only part proprietor, instead of sole.

Notwithstanding some coquetting backwards and forwards about words — as, whether the plaintiff might or might not declare in trespass, that the hares, &c. which the defendant had carried away were his own, (*suos*,) — the common law treated of game with quite as much respect and consideration as any thing whatever of the same class. Its spirit, too, was more liberal than its letter. Under what form of concluding words, or by what circuitry of expression, the remedy was fastened upon an action of trespass, for breaking and entering the plaintiff’s close, did not much signify, especially since, for other and more grievous wrongs, (such as adultery and seduction,) the law delights to surprise the unlearned by the like tortuous expedients. Besides, the wording of the writ in the register was not the only scruple in the way. The common law considered some things as too vagrant

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\* An insuperable difficulty against attempting more than a possessory property in game, arises from the impossibility of recognising your own from another’s. Our ancestors sought to obviate this dilemma in the case of swans, the only royal fowl, and, perhaps, by reason of the capability of proof afforded by this expedient, the only bird that could be an estray. His white coat offered the means of securing a visible impression; and he was consequently property or not, according as he was marked or unmarked. Lord Coke gives what he calls a notable precedent, where, in the reign of Henry VI., a man, to please his wife, grants over to his son his swan-mark of his coat-of-arms, (a little ragged staff,) as painted in the margin. It had descended to him from his father. By a qualification act for swans, (22d Edward IV.) none could have what was hence called a mark, or game, of swans, who had not a freehold of five marks a-year.



and volatile in their nature to be the subject of absolute property, as light, air, water, and (in 1767, authors were startled to hear) ideas. Others, again, were below its notice, as administering not to the profit of the commonwealth, but to the whim of an individual, such as dogs, parrots, and (to the great commiseration of the late Mr. Lawson) ferrets. The distinction which was taken between absolute property that was denied, and base or possessory property that was admitted, has popularised the vulgar error, that the law withheld from things of this description the character of property generally. If lawyers themselves were occasionally at variance in their perambulations on this boundary, few laymen were likely to take a microscope to distinguish between the splitten hairs of trespass and of trover. Many, too, who never heard of the precedents the other way, might yet hear of such a fact as, for instance, Mr. Baron Legge having refused to try an action for shooting a monkey that was eating fruit in a garden, on the ground that it was a thing of no value. It is probable he had fallen out with his wife's monkey before he started for the circuit; for they were the favourite female playthings of that age — and of exemplary use to keep lovers on their good behaviour. All this, however, looks very unlike business; and resembles school divines quarreling whether the monk, who had taken a vow of poverty, might call the mouthful which he was in the act of eating his own, rather than the good sense of men administering the affairs of life. It is not more derogatory to the law to protect a man's property in a monkey, than in a picture of it by Snyders; nor the flowers in one garden, more than the kitchen stuff in another; and, since the happiness of a community is made up of that of all its members, there seems the same call for a penal sanction on behalf of society, whenever the circumstances are otherwise felonious. But the common law alters its ways of thinking and acting slowly; and as our courts, which have not appeared to the greatest advantage in their decisions concerning public policy, had begun by supposing that the public had an interest in discouraging such vanities, they have not even as yet changed their course sufficiently to allow the stealing of them to amount to larceny, and be punished by indictment as a felony. Nobody can regret that this extreme consequence has been evaded; for the blind confiscation of property by wholesale, which is part of the definition of a felony, (instead of a fine proportioned to the offence,) makes it odious to all reasonable minds, as the remnant of a ferocious and fiscal jurisprudence.

When Parliament began to interfere, it undertook the work with, at least, more discrimination. The party injured having usually preferred to put up with his first loss, rather than throw good money after bad in an expensive action, the 11th Henry VII. (as we have before observed) first called in that unpopular public servant — the common informer, whom he bribed with the half of a 10*l.* penalty. Legislation on this subject once begun, was too tempting not to be proceeded in. Further penalties soon poured in, recoverable by suit at Westminster and elsewhere, by information before the Steward in his leet, or before a Justice of Peace, and, in some cases, by indictment at the Sessions. The facility of criminal punishment, as at last provided under the Qualification and Certificate Acts, has the merit of promptness, vigour, and certainty, in its exercise: compared with most other parts of our Criminal Law, it is nearly the difference between travelling post and travelling with your own horses.



Believing that, both in common sense, and by common law, the right to game attaches to the possession of the soil, we have no complaint in the abstract to make against so much of this legislation as directly aims at checking the infringement of that right. Lawyers speak unguardedly, we think, when they call night-poaching, in armed gangs, simply ‘an agreement to commit a civil trespass.’ Our complaint is, that, throughout a great part of these provisions, instead of their being founded upon the principle of an universal protection of the general right, the interests above a certain value are most unfairly secured, by a confiscation of such interests as do not reach this arbitrary standard. It is as if, in a sum of figures, the pound should have conspired to defraud the halfpence. Parliament as yet has not meddled with the Civil Law in regard to game. Indeed, very little adjustment is required to complete the adaption by which Willes, C. J. (when denying that none but tame deer could be property, and distrained as such,) said, nearly a hundred years ago, that if the nature of things changed, changes in the law must follow. A slight pruning of some aberrations of language and illustration, and the castigation of little more than two or three cases out of the whole array of our law-books, would make this system of special property consistent with itself, and satisfactory to every interest as well as feeling. But in the Criminal Law, the meshes of our legal net must be completely unwoven, before its only legitimate objects can be properly and honestly obtained. Our first amendment must be the abandonment of the usurpation introduced by the Disqualification Laws. They have created a statutory privilege from one end of the kingdom to the other; and by violent separation (much more sweeping and extensive than what existed in our most feudal times) of ownership in the soil, from the ownership of that which lives upon its fruits, they have given ‘gentleman’s game’ a right of common upon every unqualified man’s estate. One of the evils of this innovation has been, that lords of manors have been flattered by it into an indistinct belief, that, as representatives of the Norman aristocracy, or in some other odd manner, they have inherited a sort of manorial supremacy over game. Blackstone’s crotchet, that some claim of this kind was an original prerogative in the Crown of England, becomes of some importance, in case it should again be put forward, either as an obstacle to justice, or a pretext for compensation, by its pretended assignees. In that event, proof to any amount, or, at least, as much as any reasonable man can wish for, and much more than most lords of manors would like to read, shall be forthcoming, whenever wanted, in denial both of the original right, and of the supposed assignment.

By those who like authority better than reason, and statute more than common law, the 12th Richard II.\* is generally quoted as an

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\* The interpretation of 12th Richard II., with its year’s imprisonment, may be of some importance; since, according to Burn, it is still in force, and any one who chooses may prosecute upon it: ‘Forasmuch as divers artificers, labourers, and servants, and grooms, keep greyhounds, and other dogs, and on the holydays, when good Christian people be at church, hearing divine service, they go hunting in parks, warrens, and connigries of lords and others, to the very great destruction of the same; and sometime, under such colour, they make their assemblies, conferences, and conspiracies, for to rise and disobey their allegiance: It is ordained and assented, That no manner of artificer, labourer, nor any other layman, which hath not lands or tenements to the value of forty shillings by



example of the great antiquity by which the people are, it is said, familiarized to the doctrine of disqualification. Supposing the precedent to apply, what authority it ought to have as the act of an independent legislature, may be best understood by a reference to the contemporary history of that wretched reign. There is no trace in the year-books of its ever having been acted upon. It was an instance probably of what was then so common, an act passed on the spur of the moment, (and the motive of this, as stated, seems half political,) to be never thought of afterwards, unless afterwards re-enacted, or frequently enforced. The apprehension of Wat Tyler's mob, and of the Captain Rock Letters sent over the country by John Ball, must have kept the higher orders in constant alarm at every symptom of an assembly of the common people. Any possible motive or pretence for it would therefore be as carefully removed, as at the present moment in Jamaica. In the first case, where we meet with an allusion to it, it is mentioned, not as restraining persons below a certain income from hunting on their own grounds, but as imposing a penalty, in addition to the action of trespass, for hunting on the ground of others. Should this be thought a forced construction, it shows at least the interpretation which usage had put upon the statute, when it deceived Broke, J. A.D. 1521. Our wars in France, and at home, during the interval, had found our great men in nobler game than that of worrying poachers. The recital in the statute proves, that it was occasioned by frequent meetings in parks and privileged places; so that the words, 'gentleman's game,' so often cited in italics, may mean nothing more than just that quantity of game kept by gentlemen within their franchises, in the way deer might be spoken of in an act of the present day. It is true, John Ball's rhyming question, 'When Adam delved,' &c. some seven years before, had given the word (which is almost a stranger to our statute-book) a more than usually painful meaning. Whatever lords of manors may imagine, their connexion with game is comparatively a novelty; and as they clothed themselves with this character for their own interest by one statute, it is not extravagant to hope, that they will lay it aside, when

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' year, nor any priest, nor other clerk, if he be not advanced to the value of ten pounds by year, shall have or keep from henceforth any greyhound, hound, nor other dog, to hunt; nor shall they use fyrets, heys, nets, harepipes, nor cords, nor other engines, for to take or destroy deer, hares, nor conies, nor other gentleman's game, (*n'autre desduit des gentils*), upon pain of one year's imprisonment; and that the Justices of Peace have power to enquire, and shall enquire of the offenders in this behalf, and punish them by the pain afore-said.' *Desduit* was thus applied to the diversion *par excellence* of those times. It figures in a Latin letter sent from Magnus, King of Norway, to Edward I. along with a whale's head; where the word would have surprised Cicero as much as the whale itself. People liking to admire and talk about the size of whales, he sends 'caput cetinum integrum cum dentibus,' to be explained by the bearer; 'ut etiam esse possit ad *deductionem* regalis excellentiæ, cum sit ad laudem mirifici creatoris.' Henry IV. of France forbids all 'gens roturiers' to keep 'oyseaux *gentils* et de proye:' a use of the word 'gentlemanly' more in harmony with the antient French than the antient English law. They acknowledged noble, free, and servile: but England knew no distinction, beyond the walls of Parliament, but that of freeman and villein. For the lower order, (than the lowest deep, a deep still lower,) that of Slaves, had disappeared before the records of Parliament begin. We only remember the atrocious word twice, in a bill proposed 50th Edward III. and 1st Edward VI., to make runagate servants and idle vagabonds slaves.



satisfied that it never properly belonged to them, by another. First, they have no business with the armour of Achilles; and, next, it is not his shield behind which they now take their stand, but some substituted utensil, with which Martinus Scriblerus has imposed upon their anti-quarian credulity.

The statute of James I. may be fairly taken as the first real Disqualification Act: and many circumstances prevented its being in uniform or strong operation, much before the time when it was superseded by the higher standard, as fixed by the 23d Charles II. During a considerable period after the accession of Henry VII., (when men felt that a great change was going on around them, which they could not understand, and which they were seeking to controul or influence by a vast waste of strange legislative experiments,) a series of statutes were passed, bearing upon this subject with an equal variety of objects. Some to encourage the chivalry of hawking; some to keep alive Ascham and his long-bow; some to suppress that pestilent novelty, the gun, and those ‘evil-disposed persons that do daily use to ride and go in ‘the king’s highways and elsewhere, having with them cross-bows and ‘little hand-guns, ready furnished with quarels, gunpowder, fire and ‘touch, to the great peril of the king’s most loving subjects.’ Afterwards crowd in upon us the later enactments, with their multifarious purposes, express and implied; for example, that of protecting the morals of the lower orders against idleness — of preserving the game, nominally of *all* proprietors, against pauper poachers — of securing a monopoly of the said game actually to the *larger* proprietors themselves — and lastly, of drawing an impassable distinction between the new monied interest and the older landowners. Under the two statutes of James I., personal property, to the amount, first of 200*l.*, and next of 400*l.*, was received as a qualification. The ill-temper of one of those headstrong parliaments of Cavaliers that disgraced the reign of Charles II., omitted the qualification of personalty altogether, and could see no right to any thing but in their own acres. The folly, in the moment chosen for this ebullition of selfish spleen, cannot be too much admired. The moment was that in which this power (whose existence they refused to recognise) was preparing to thrust them from their seats, and buy their darling ground from under them. Nationally speaking, this measure by itself might have had no greater result than that of making a few more opportunities for village insult and importance. If it raised ill-blood, it probably would not have shed it. But it was unfortunately accompanied by a line of parallel enactments, whose consequences their first framers may be more excused for not having foreseen, than ourselves can ever be, for having permitted them to reach their present height, before we retrace our steps. Henry VIII., whose cloth-of-gold magnificence would make him love the very plumage of his pheasants, has the credit of having opened the trenches in this parliamentary campaign against the Sellers and Purchasers of game. But his act expired with the next parliament. The attack was not renewed till James I. took the field again with a permanent enactment, which exists at the present hour, though kept out of sight by its successors. It seems certain the act was never regularly enforced; as, we suspect, few of the mere game acts ever were, until later times: For, when Charles I. (1632) drove the gentlemen from London, in order that, ‘according to the antient usage of the English nation, they might, by ‘abiding in their several counties, guide and relieve the meaner sort of



‘ people ;’ he seems to have been at a loss with what consolation he should seek to arm them against the remonstrances of their ladies. A proclamation was decided on, by which he forbade all game ‘ to be ‘ dressed or eaten at any inn,’ expressly to encourage them to live more willingly in the country ! Clarendon, in his *Life*, mentions how much more abundantly the king’s friends at Oxford were supplied with pheasants than the rebel citizens in London. The statute-book shows this was not connivance. It will serve, too, as a proof of the slovenly mode in which the law in this behalf has rained down snares, worse than those of any poacher. William III., in one of the game acts, by which (besides those against papists) he was obliged to appease the Tory squires, who would otherwise have charged 1688 with having destroyed the game as well as the fine weather, expressly excepts the unqualified possessor of it from the penalty, when he can produce either the party of whom he *bought* the same, or some credible witness. The Acts of Anne only prohibit the sale *by unqualified persons* ; and it was not until 28th Geo. II. that qualified persons were prevented from making a profit of it by sale, if they were so disposed. This act was passed to remove doubts, raised by a decision in 1755, in which the court had, ‘ upon great consideration’, determined that the Act of Anne, by the words ‘ higler and ‘ chapman,’ only comprised traders from place to place ; prohibiting such from ‘ buying game from loose idle persons in one place, in order ‘ to sell it in another ;’ but that a resident *poulterer* could ‘ never be ‘ within the intention of the legislature.’

Now all this legislation went on, whilst the act of James I., prohibiting sale of game by any person whatever, was yet left outstanding on the statute-book, and unrepealed. The only instance of purchases that is there mentioned as unlawful, was the buying to sell again ; nor was the buyer for any other purpose guilty of any offence until 58th Geo. III. If the antecedent periods of prohibition were hastily and injudiciously selected, what can we say of the advisers who sought thus late to pin the basket, after all the causes of former failure had been developed, and were notorious to every higler on every road that leads to London. The result of striving to overrule the character and condition of society by acts of parliament, and of attempting to prevent the full supply which exists in the country from meeting the full demand which exists in the towns, is what might have been expected. A violation both of all the common incidents of property, and of the principles on which the producers and the consumers deal in articles of value, has brought the question into its present inflamed and dangerous state. Game preservers can lose nothing by listening to the voice of reason, justice, and humanity. Their game gets to market already in as great a mass as it ever could do, and on as reasonable terms to the consumer. The only difference is, that the poacher supplies it, and not the proprietor ; and that, instead of increasing the comforts of society by an interchange of commodities, it increases misery and crime.

However ungracious the aspect which the disqualification laws present to individuals whom they exclude, their abolition is become important to the public, chiefly as laying the best preliminary foundation for the restoration of the common law, by legalizing the sale of game.

It is unaccountable that a return to the natural system of legal sale, so improvidently departed from, is not by this time a generally



received opinion. It is, however, gaining ground daily; and with a little good management it must be triumphant, both in Parliament and with the public, very soon. We have, in fact, no alternative; for, as in another contest with nature, which we are giving up at last, the annual question comes back upon us — What is to be done? Those alone, who would protect the Irish Church by creating discontent in its many millions of tithe-payers, will continue to protect game by refusing it the security which is thrown round a commodity, by making it the subject of commerce. An article of which the law says, ‘This shall not be sold,’ is in effect outlawed; it is denied the aid of all that respectful feeling of private right and of public benefit, which belongs to those subjects that form the common stock of our mutual interests, and the interchange of which is one of the most powerful relations by which civilization binds man to man. In this state there is about it less of that ‘divinity which hedges’ in other rights. Let equal temptation come, and it must be the weak point where the natural reluctance to commence a violation of the law may be expected to give way first; yet, after being thus weakened, it is unfortunately the very point on which a pressure, such as what no other object of desire is exposed to, is brought to bear. All of us have experienced, in divers ways, the artificial consequence and excitement that attaches to a thing from its rarity and supposed difficulty of attainment. Eve perhaps ate no other apple in all the garden.

This is the weakness of mankind, on which our cunning and paltry vanities calculate for their success, and by which man intrigues after a shallow and unmerited admiration for advantages of difficult attainment. This is the charm of manuscript poetry, and of early peas. This is the secret of the mysterious celebrity with which the favoured few compliment the author of writings ‘not published,’ or the printer of ‘150 copies only.’ It is the stimulant for a satiated and corrupted taste, which the plain and open pleasures of nature have ceased to move. It is the resource where mediocrity seeks for flatterers, protected from the insolence of vulgar competition. Thus private theatricals may be crowded, whilst Mrs. Siddons is acting in an adjoining street; and the exclusives flock to Almack’s, and enjoy the satisfaction, not that they are themselves admitted, but that others are kept out. A capricious value may be thus given to any thing that accident makes the fashion, as long as the privilege of exclusion can be maintained: and the presence of a partridge on her table at the second course, is as necessary to the peace of mind of the mistress of a house, as its supposed presence in his stubbles, to the credit and complacency of a country squire.

Of the extent to which this motive operates, the poacher has all the benefit at present. The salesmen, who have the materials for the comparison daily before their eyes, from superintending the general supply of the metropolis in its favourite articles of consumption, treat the increased demand, from the fashion, of a forbidden article, as on the whole more than equivalent to the counter demand which might arise in other quarters, when the timid and the scrupulous had no longer the fears of an act of parliament before their eyes. It is evident the slight difficulties thrown in the way at present, are of a kind that provoke more than they deter. Not strong enough to arrest the course, they only make it crooked and disturbed, instead of straight and smooth. If novelists instruct us, that the padlock and the duenna



are yet to be constructed which will keep true lovers from each other's arms, our political economists have been equally diligent in demonstrating, that a demand and a supply will make themselves the means and the opportunity of meeting, by at least an equal power of attraction. If the old ones will not consent, the young ones run away; and the Gretna blacksmith pockets the surplus fees of the rector of St. George's. Thus, unless the wealth and luxury of the country can be reduced, so as materially to diminish the demand for game, or unless the preserves are so wasted or abandoned that the supply is no longer worth the gathering, the only effect of refusing an open sale is, to put the whole trade into the poacher's hands. Leadenhall market is in truth *the* great preserve; and that we maintain strictly and exclusively for him. Our legislation might have been, every word of it, his own work. Supplied the market will be, whether we will or no. All that depends upon us is, the ulterior question—How? lawfully or unlawfully? This issue is one, which the prejudices of society and the inconstancy of government have sent to trial in various shapes at all times; but the verdict has come back always the same way.

If argument is worth any thing, the analogy between poaching and smuggling is decisive. Prohibit silks entirely, and you make the smuggler's fortune, though the nation maintains a little army on the preventive service: whilst, we suppose, it means to leave the game preservers to support their own. Could Napoleon have built a wall of brass round the Continent, yet coffee and sugar would have got in. Prohibit all interest for money,—the respectable bankers will shut up their shops, but the annuity broker will have every thing his own way. Prohibit the surgeon from the means of legally obtaining the necessary materials for his science, and you leave even the living at the mercy of the desperate middlemen whom your insane policy raises up. The law that will not assist in and superintend such arrangements as the position and interests of society require, is the real parent and patron of the smuggler, of the usurer, of Burke and Hare. Like Falstaff, they 'laud the war' against common-sense, without which 'Othello's occupation's gone.' For what are the poachers about Leeds, but a body of people whose occupation is called into existence by our refusal to permit a commerce in the article which they supply? Leeds does not sally forth to steal the rabbits of its neighbourhood, because hundreds come to market every week; but Leeds will turn out her 'trecenti juravimus' to bring in pheasants until she can legally purchase them. If grapes were forbidden fruit, no hothouse would be safe. If sheep were not allowed to go to Smithfield, the shepherd and his flock would be shot at to-morrow, with nearly as much audacity and impunity as the keeper and his pheasants are to-day. If, out of love to Shakspeare, we want to call back the deer-stealer, as one of the lost characters of former days, we have only to enact that venison shall not be sold.

The evidence before the Committee of the House of Lords (1828) is an abridgment of this one chapter of the History of England for the last few years. The witnesses are of three classes; and the facts stated by them bear principally on three distinct lines of observation. The Poulterers prove the supply brought to London and the great towns, its late increase and present completeness, the mode by which it is collected and conveyed there, the cheapness, readiness, and impunity with which it is disposed of. The Country Gentlemen prove the desperate encounters by which they have lately maintained, and by



which alone they can hope to maintain, their monopoly under the actual system. Mr. Hunt, as representative of the Gentlemen Farmers, among whom he began his public life, powerfully confirms the present universal feeling of alienation among the occupiers and small proprietors, in consequence of the injury and injustice to which they consider themselves subjected. He appears, during a qualified sportsmanship of some thirty-four years, to have got singularly imbued with the prejudices of his order. His unmitigated abhorrence at the idea of making a sale of what he has always thought was meant for sport, shows that he has only looked at half the evil — to the sense of injustice that pervades the middling classes in the country; but he appears never to have thought of the causes and temptations at work more powerfully in the towns. The other witnesses are, a dealer in live pheasants from Bayswater; and the Lord-Advocate and Mr. Drummond, who explain the law and usage of Scotland.

The supply, from not being able to give publicity to the sale, is at present more than sufficient: It furnishes not only for consumption, but for waste. In London, Leadenhall and Newgate markets are the principal game bazars; in one of which alone, there are about ten wholesale salesmen who deal in it, independent of retail poulterers. One of these, who *sold*, in 1827, 9628 head, (of which 1293 were pheasants, 1979 hares, and 6356 partridges,) says, he has *thrown away* pounds worth at once — as many as 60 at a time. The monthly returns of another make a total of 19,047 sold by himself alone, in the same year; of which, only 1813 head came from persons possessing game in their own right. It seems clear, however, that considerably more than this proportion is really supplied by the gentlemen themselves, but that their transactions, in such cases, are usually with the country dealer at the adjoining town. Two witnesses, apparently poulterers from Leeds and York, had retired from the concern; one from family circumstances, the other from being undersold by the guards and coachmen in this sort of agency business. These last are able to save about ninepence a-brace in the carriage, the Norfolk charge being about eight shillings a-hundred weight. They both state the frequency of such sales by men of consequence and owners of manors, either in money, or in exchange for other things, as fruit, &c. One of them puts the proportion thus supplied to him at a fourth; that received from gamekeepers at about the same. A great deal comes from abroad, at present, with other poultry; but it is stated, that only a small part of the 19,047 was foreign, and a small part Scotch. From its inferiority, one witness never takes in French game, or wild fowl, at all. What comes in May, is generally alive. It has numerous purveyors in the country. Shepherds send up a considerable quantity; in some places, small farmers, in others colliers, or handicraftsmen, are the chief performers. It is generally collected, in the first instance, from the poacher, by the keepers of public-houses, goose-feeders, or little shopkeepers, who send it up to the salesmen in the neighbouring towns. The salesmen either buy it at once, or sell it by commission, which in the country appears to vary, and to have been there about one-fourth of the price of the game itself; in London it is three-pence a-head. The price at which the salesmen sell to poulterers and hawkers, ranges of course between high extremes, but seems to average about 4s. for hares, (the heavy carriage of which makes them less worth looking after;) 7s. a-brace for pheasants; 2s. 6d. a-brace for partridges; 5s. a-brace for



grouse; 9s. for black game. The poulterers give more or less, just according as they guess, in the half secrecy of this business, that the stock on hand happens to be great or small. The price is already a good deal cheaper than chickens. ‘I could get five hundred partridges in London, to-morrow, at one shilling a-piece.’ P. 21. One witness, who never sold a pheasant in 1827 for more than 5s. 6d., was giving, for dozens of fowls, 9s., 10s., and 12s. a-piece; and has given as much as 25s. for a very large one. Another had sold, recently, a pigeon at 1s. 6d., and a partridge at 1s., both equally good. The price of game, they all agree, is governed at present by the common principle of sale, and depends entirely on the proportion between the supply and the demand. Our system, in this respect, has been gradually perfecting itself during the last 20 years; at which time, for instance at York, it seems nobody thought of dealing in it; ten years ago it was quite familiar, though the quantity then was small. It is within the last five years that the demand has so considerably increased; and yet the supply still keeps so far a-head of it, that the price has each year been dropping lower, in every hand through which it passes. Of course, the poacher’s profits drop in the same degree, unless as far as it is balanced by the greater quantity he procures. It is privateering: Sometimes a pound a night; sometimes half-a-crown; sometimes nothing. Lord Skelmersdale was told, by one of a party of eight, (all of whom were sentenced to seven years’ transportation!) that his share of the booty, a preceding night, had been 4½d. The increase of poaching, in this manner, has followed the increase of game; and is particularly connected with the tempting exhibition of it on our present system of Preserving; since what used to be more spread over the country, is now collected into and made accessible in single spots. The little progress that the offence has made in Scotland, travels the same course. Night-poaching crossed the Border in company, and made its first appearance, with the pheasant, especially in Mid-Lothian.

In respect of the consumers, the demand does not seem to have arisen, as some country gentlemen are fond of supposing, from the extravagant luxury of the middling tradesmen. ‘Taking the line of Bond Street or Regent Street, that class of tradesmen hardly ever buy it; but there is a class of tradesmen of the present day—for instance, at Waterloo Place, and the lower part of Regent Street, wine merchants and others—who buy game; they have no chance of having it any other way.’ In the poulterer’s opinion, no great proportion of game is bought by tradesmen; but if there is any distinction, from among ‘all ranks,’ tavern-keepers take precedence, as is natural, and seem as such entitled, in all senses of the word, to some allowance. Among the causes to which country gentlemen attribute the increase of attacks by gangs of night-poachers, the first that we observe mentioned is a reflection, not on the law—not on the demand that exists for game, which, in consequence of their own legislation, can be only got at by means of this description—but upon the administration of the law by its greatest authorities. ‘I have no hesitation in saying, it arises from the disposition of the Judges and the Juries, both at Sessions and Assizes, to *acquit* all poachers, and to condemn all keepers! There is one universal, strong, and well-founded impression, throughout the whole of the district with which I am connected, that if the poachers are only sent to York, they



‘are certain of obtaining a complete triumph over the country gentlemen. The juries are composed of farmers who cannot shoot themselves, and have no inclination to preserve.’ P. 76. Sir W. Bryan Cooke proceeds by confirming the ‘very strong impression indeed,’ which has been made by Mr. Justice Bayley’s dictum, at Lancaster, that ‘he considered any gentleman as responsible, who sent out his gamekeepers at night, armed with fire-arms.’

With regard to these observations, we should have thought, that the Judges at Quarter Sessions were at least safe from any imputation of an undue disposition to twist the law in behalf of poachers, and to the conviction of keepers. If the Judges of Assize do indeed try cases of this nature in public, with a visible bias respecting the facts, as well as the law, there is one answer in the evidence, by which it seems probable that, in private, at least, they do not set an example of disobedience to the law, over which they otherwise so honourably preside, as much as some members of the class that watch so jealously, and visit so severely, its infractions. Among the rare contingencies of occasional scruples against buying game, on the ground of its being prohibited by law, it happens that the following is *the only* one identified. ‘I have heard that a poulterer, who *served one of the judges*, used to send in a bill-of-fare of the game; and he was prohibited from putting it in the bill, and he will never have it in his house.’ P. 17. Let the reader compare this culinary forbearance with Mr. Hunt’s sketch from the inn at Staines, and he will acknowledge, that as far as encouragement to the poacher depends on the existence of a market, the Judges may plead a set-off against their alleged misconduct on the bench. *They* at least have not the scandal of provoking and sharing in a violation of the law, and then pouring out its utmost vengeance upon the heads of the wretched culprits, whom the week before they had bribed by their money, and seduced by their example. ‘I recollect going down to Hampshire the year before last, two days before the first of September. I was at Staines; and I think there was a noble Lord, one of your Lordships’ Committee, there, who was the Steward of Egham Races at that time. While I was taking my lunch in the bar at Staines, I heard an order come out of the noble Lord’s room, ordering plenty of partridges for dinner next day; that was the day *before* the first of September. When I came back the next week, I enquired, and I heard that they had sent to London, and had got a plentiful supply of partridges from London on the day before the first of September; so that I think, if it is regarded in that way, poaching will not be altogether abolished.’ P. 56.

The amount of actual offences against the law may be strictly estimated by the amount of the supply. The *convictions* only show the number of those who have been unlucky enough to be found out; the average of which proportion will be very different from that of other crimes, in almost all of which the only question is, who can get first and fastest to the constable. Whereas, in the present case, in agricultural districts, nine-tenths of the small farmers, they being the only persons who, by knowing the goings-out and comings-in of the labourers, could effectually check poaching, are themselves described to be the principal poachers in the parish; whilst, in manufacturing districts, the poachers, during the last five years, have changed their tactics, and, by mustering in fifties instead of half dozens, secure a general impunity by their numbers. Fewer than ever are taken. Juries thus far lose the opportunity of showing their reluctance to



convict. Offers of reward have no effect. The walls are covered with handbills ; but not a person stirs. In regard of this excepted case, it is Ireland in miniature,—hatred of the law, and that law inefficient. Yet the rate of offences under the Game Laws, even thus calculated by that portion of it which falls in with punishment, has advanced more rapidly than those where the crimes committed, and the crimes judicially punished, nearly approach to equality. The total number of persons convicted of crime, at *assizes and sessions* in 1822, was 8209 : of these, 97 were for game offences. In 1826, the total was 11,107 ; of these, 128 were for game offences : The total convictions under the Game Laws *generally*, in 1820, were 1014 ; in 1826, they were 1450 ; so that in 1826, the general comparison appears to disadvantage. We have seen no returns of the convictions for 1828. But the comparison in ‘the summary statement of the last seven years,’ leads to stronger inferences. Whilst the total number of convictions at assizes and sessions for 1828, is 11,723, (being an increase only of 116 upon the total of the year 1826, and a decrease nearly of 1000 upon that of 1827,) the portion of this belonging to the Game Laws is (306) ; being near two-thirds more than the proportion of 1826 (*sc.* 157), and near one-third more than the proportion of 1827, (*sc.* 212.) In 1825, the numbers in jail committed for being armed at night, were, in England 248, in Wales 3, and in Scotland 5. According to the aggregate number in confinement in the several counties of England during the last seven years, the highest annual average of commitments runs ; Lancashire, 81 ; Suffolk, 73 ; Wilts, 60 ; Dorset, 58 ; Nottingham, 56 ; Norfolk, 43 ; and the West Riding only 32. These proportions are without any reference to their respective populations. In 1825, 46 persons were confined in Dorset, nine of whom were armed at night. In Wilts 146, of whom 46 were armed at night. Mr. Bennet, therefore, scarcely seems borne out in assuming, that the game which comes from Salisbury to London, comes from Dorset, which he considers preserved more highly. By the return of the same year, it appears also that Devizes and Winchester are the only jails where every poacher, without distinction, that is in custody, is also on the treadmill ; and in both cases by order of the magistrates.

The truth is, however, that these figures are quite useless as a thermometer for any opinion respecting the state of crime, connected with an offence which meets the privilege of qualification with the counter-privilege of impunity. They only show the public and private wear and tear of mind and money in this additional burden, thrown in upon the already enormous mass of our criminal litigation ; the misery inflicted on the families of offenders ; the irritation and fatal consequences that may fester, out of a punishment for that which the practice of society, from top to bottom, cannot at present enable those, whose opinions are formed only by habit and authority, to see any thing wrong in. A jail seems to be a school where lectures are given on the doctrine, that game is *feræ naturæ*, and subject to the title of occupancy, ‘Catch, that catch can.’ Mr. Hunt says, p. 49 : ‘ I have ‘ generally observed, that those who have been once committed to jail ‘ for poaching, have seldom or ever left it off. I have had an opportunity of seeing and knowing a great deal of those men in jail. I was ‘ two years and a half in jail in the West of England, and I was not ‘ there without making my observations ; and I have no hesitation in ‘ stating, that a poacher did not consider himself guilty of any moral ‘ crime, neither did his fellow-prisoners, or the officers of the jail.’



A witness, who himself, as a Yorkshire poulterer, used to make from 300*l.* to 400*l.* a year by his profits upon game, attributes another consequence to the feelings that linger after a conviction; namely, that a fourth of the game is now destroyed by malicious persons: having paid fines, they break the eggs, or spread poison on the land, to kill the cause of their former troubles! He himself, in revenge of an Exchequer process for selling game, cleared his prosecutor's manor 'in two years, as clear as it could be,' by giving 6*d.* or a 1*s.* more to those who would bring them, and selling them without a profit. This same man considers that three-fourths that is sold, is sold for the purpose of making presents. Notwithstanding the above specimen of temper, we must suppose he made an excellent husband, for he exemplifies his general theory, that 'God made game,' by supposing the case of an invalid or longing wife, whose desires you must fulfil. In such case, therefore, the reasoning is, if man's law interferes, and says you shall not buy it like other things, you are remitted to nature's law, and may get it as you can. The farmers, who must necessarily give the tone to the class immediately below them, 'frequently apply' to their landlords for compensation, but can get no redress; the consequence is, that where they do not take it themselves, their labourers feel, and are felt to be doing them a service. They shrink, also, from the blood that is spilt at their very doors; and often say, 'It is a shame that some alteration is not made, in consequence of the fights, and things of that sort, that the papers are full of.' Mr. Hunt's proposition, that the landlords should make an alliance, offensive and defensive, with them on this subject, was not more naturally than justly passed unanimously by a county meeting of Somerset, where from 12 to 15,000 farmers were present. All parties are about equally to blame in the practices which have made this one of those unfortunate excepted cases, that are tried by a self-constituted law of honour, instead of by severer principles. A young beginner, who goes poaching with his father for the first time, soon finds that he is mixed up with higher authorities in this covert violation of the law. Standing at the bottom of the ladder, and looking up at their sanction and participation, the rumoured existence of a latent act of parliament to the contrary, cannot persuade him, that the strange partnership in which he finds himself is a partnership of guilt. He sees that the whole country is of one mind on this subject. The very first people in the kingdom are in league; for they are among the regular purchasers of game. Now, he has learned that the receiver is as bad as the thief; and therefore his catechism may well excuse him for not taking that view of his own proceedings, which would make so many of his betters only the buyers of stolen goods.

If any one would publish a collection of the night affrays, most of which never get beyond the provincial newspapers, and many never into print at all, the public would be startled at the Servile war which has actually been raging in the midst of general peace and subordination. Our campaigns are in our plantations and our parks. Notwithstanding Mr. Milne's advertisement, some few months back, for fresh recruits to his army of keepers, — 'Wanted, eight men of courage and character,' &c. — 'N.B. Those who know something of the poachers about Leeds will be preferred;' — notwithstanding that Mr. Petre's forces consist of 'twenty-seven men, armed with pikes and cutlasses,' this determination on both sides will only make the intermediate con-



tests more terrible and frequent. But the concession must ultimately be extorted from our blood-stained hands. Nothing in Euclid is more certain. Till the law displaces the poacher, by putting an honest man into his shoes, all that individuals can do, is to give up preserving game. At present, bands too numerous for resistance, sweep every manor within distance, as long as any thing is left worth coming for. At Lord Cholmondeley's, they knocked at the door, challenging the garrison to come out; at Mr. Tasburgh's, near Doncaster, last December, they set guards round the house whilst they went into the plantations. Government will scarcely make cordons round our park-palings with the troops that Ireland is now about to spare, nor plant their sentry-boxes in our woods. Many ceased to preserve, upon the abolition of spring-guns, although it is in evidence that the poachers never minded them; for, by some strange perverseness, and as if they too had caught the general spirit of the country, instead of shooting them, they always preferred maiming the keeper or the cattle. Many have yielded since, in consequence of the judicial notice from Mr. Justice Bayley. But it is madness surely, as well as inhumanity, to force bold and faithful servants into a pitched battle with Leeds and Barnsley. They who have any fancy for the detail of this most painful part of the subject, will find, in the Report, statements made by the country gentlemen concerning several of the fights; and they will learn from others, how much more deep and bitter a feeling against the keepers has risen up in the poachers, during the last two years. The life of a Lancashire keeper, at present, is worth about as many years' purchase as that of a Tipperary tithe-proctor before the Commutation Act. The compassion that Sir W. Cooke represents as having been universal, in the case of a most unprovoked and ferocious murder, is a novelty, and an awful one, among a people so unaccustomed to, and so shrinking from, the sight of blood, as the people of England; since it was compassion, not for the innocent keeper, who was murdered unprepared, and in cold blood, but compassion for the ruffian that murdered him, and absconded.

There is only one remedy. But it is a simple one, unless the squires insist upon other securities than belong to doing justice. Reunite the right of game to that of the other interests in land, by putting an end to disqualifying laws; and legalize its sale,—cautiously, if you choose, at first, and by means of licensed dealers, deriving title through a proprietor or occupier of lands. When the state of opinion and of practice has once got so thoroughly disordered upon any subject, it is not to be expected that a vote of Parliament, and a few clauses printed by the King's printer, can immediately set it right. All that legislation can accomplish is, in the first instance, to unmake that portion of the evil which the law has made; and by resuming a fair and natural position, enable us to deal openly and efficiently with the remainder. It is extravagant to imagine that the law, when most improved, can put an end to poaching, more than to any other kind of crime; but the novel and peculiar character of it may be removed. Game must bear its proportion of fraud and violence, with other articles of property. Indeed, something more, from its anomalous nature—from the difficulty of drawing a line that shall not appear arbitrary, between what is made property as game, and what is left open, as blackbirds or hedge-sparrows,—and from the evil thoughts, and the facility of executing them, which rise before a labourer returning from his work, at the sight of



three or four hundred pheasants, and more than as many hares running about a field by the road-side. The excitement of the sport and the adventure must also go for something; though profit either for a livelihood, or for a little loose spending money, will lie usually at the bottom,—the party himself may not be able always to answer to himself which is which. Whilst public opinion takes part with the poacher, many will engage in it, who will refrain were this patronage withdrawn. But in counties where wages are 2s. 6d. a-week, the dozen helpers whom Mr. Slaney mentions as hired at 2s. 6d. a-night, cannot be expected to be the last. It is not probable that, in England, offences of this kind will ever be reduced lower than the average in Scotland, where, under an undisturbed system of lawful sale for two centuries, and a qualification practically obsolete, depending upon the legal meaning of an autient word (a ploughgate) which nobody can explain, they have been too inconsiderable to notice. The gentry of Scotland have had in these, as well as with their Poor Laws, the discretion to avoid making them a national grievance. The contagion of bad example, however, spreads; and the number imprisoned in Scotland, in 1825, for offences against Game Laws, was just thirty.

Game might be lawfully sold in France before the Revolution; but the right of hunting, being made a sort of ‘droit réel annexé à la seigneurie et à la haute justice,’ the feudal horror of a *chasse purement cuisinière* would prevent the public from profiting by the technical legality of sale. At the present moment, the people in office cannot make a guess what proportion of the game sold in the market has been lawfully, and what unlawfully killed. The following document respecting the present operation of the French Game Laws, (the principle of which agrees with that of Mr. S. Wortley’s bill,) surprised us at first exceedingly; and seemed to show, that however we might hope to dilute the aggravated nature of our offences and of our punishments by the proposed improvements, yet that the experience of our neighbours was not such a precedent, as we had hoped for, to authorize us to indulge any expectation that the number of offences would soon be diminished. Further consideration, however, satisfies us that the circumstances of France and England are so entirely different, that the precedent cannot apply sufficiently close to justify even the latter apprehension. The Minister of Justice, in 1825, made an official report, for the first time, of the administration of criminal justice in France. The result of the table entitled ‘Chasse et Port d’Armes,’ is as follows:—

The total number of <i>indictments</i> , or accusations, for				
offences against what we should call the Game Laws,				
throughout France, amounts to	-	-	-	4374
The number of <i>individuals</i> proceeded against,	-	-	-	5799
Do. do. acquitted,	-	-	-	1320
Do. do. condemned,	-	-	-	4479
Of these have been punished by imprisonment, for less				
than one year,	-	-	-	17
The remainder by fines,	-	-	-	4462

The singular excess of offences of this description beyond our own, can have nothing to do, in this matter, with marketable considerations. By the Revolution and the Law of partible Succession, France is broken up into a multiplicity of small properties. In this case, a sort of border war of litigation will readily arise among the several pro-



prietors, if they take to punishing, by retaliatory prosecutions, each other's trespasses, which, in such minute estates, must be unavoidable every time a man walks out with his gun. Nothing like this, however, can well occur in England, where the land is occupied in farms and properties of much greater extent. In the next place, no distinction is taken between the offences of trespass in pursuit of game, and those of carrying a gun without a certificate; an offence which a small proprietor, when tempted by finding that a covey has lighted in his field, is very likely to commit, although he may have grudged the fifteen francs, the moderate tax at which the privilege of carrying a gun is purchased. We refer to the examples of Scotland and of France, in order to prevent unreasonable disappointments. A great deal will nevertheless be gained, should we be unable to gain all.

It is not, however, by underselling the poacher that we expect to destroy his trade. Nobody would think of rearing game, as commodity, at the price which the poacher now takes for it as plunder; and less would not be a sale at all, but a gift. The landlord and the public must look to attain their object by the help of their new allies. The situation of the small landowner and farmer will be entirely reversed. His new interest will place him immediately among the preservers. As master, he will warn and dismiss the suspected labourer; as occupier, he will apprehend the trespasser; and as prosecutor, witness, and juror, he will carry through the conviction of the prisoner. In the agricultural districts this will be security enough. In the manufacturing ones, it is true, such numbers may be always brought to bear on a given point, as to make all resistance impossible, even under a hue and cry. Still, detection and prosecution will be infinitely facilitated; and, let the worst come to the worst, the mischief will be confined to the neighbourhood of the great manufacturing towns,—where preserves have no more business to exist, than in Hyde Park, or among the nursery-gardens of Chelsea. Excitements to crime of so irresistible a description, are what no one is more entitled to set up in such a situation, 'to tempt the people of Israel 'to sin,' than to set a trap in his woods, so baited as to attract the instinct of all the animals of his neighbourhood. There is a moral and political condition in the title-deeds of every estate—that it shall be used according to the interest of society, and not converted, at one's own caprice, into a public nuisance. If these places of ill-fame are not removed voluntarily to a reasonable distance, one shall better understand the policy of the antient law, by which nobody could appropriate 'these establishments to look after and preserve game,' without an express permission from the crown. The principal co-partners, however, to whose zeal and services the game producer must now look for waylaying the poacher's spoil, not so much by anticipating it, as by closing up his *debouche*, are the salesmen and poulterer. The licensing system seems absolutely necessary for this part of the arrangement; and the little addition to the price, which this restriction upon free trade will create, must be submitted to as the only means of making it worth their while to co-operate in sufficiently active and comprehensive measures. The straight-forward evidence given by these witnesses is very satisfactory in the encouragement which it holds out. Indeed, their conduct seems to have been throughout extremely creditable; especially in the unsuccessful association which they already entered into once, for the purpose of putting a stop to



trading in game. It fully entitles them to the public confidence, both in the anxiety they so properly express, to be relieved from the necessity of carrying on an unlawful business, and in the assurances they offer, that they both can and will enforce any law that shall be reasonable enough to be capable of execution.

Having done this, we shall for the future not have the law to blame. Other friends of humanity keep warning us, that if we cannot, by direct enactment, put an end to colonial slavery, nevertheless, by the removal of our penalties from sugar raised by free labour, we might make the traffic in human flesh and human bondage not worth pursuing. In the same manner, if the game-producer is allowed to bring it, like other poultry, directly to the consumer, it can scarcely continue worth the poacher's while to burn his fingers by tampering with the market, which he can scarcely make answer, even with a close and wasteful monopoly of it secured to him by law. Hitherto our legislature has given us no option. The man who would buy for the consumption of his house a pound of sugar, or a brace of partridges, can only get what has been procured by crime.

Neither rich nor poor can hope to reconcile the contradictory advantages of strongly contrasted periods of life, or of society. All of us, who live long enough, lose the play-grounds of our youth, and have to betake ourselves to more serious amusements. The landlord must put up with high rents and cheaper luxuries, in lieu of the stillness of his antient solitary reign. The peasant must let the mechanic take him to his Institute, and learn how to make the most of the new interests and pleasures that are rising up over the ruins of the 'Deserted Village' of the poet. The sooner we get our minds and character into fellowship with the wants and the spirit of the age we live in, the better for our usefulness and happiness. And no class has so much inducement as the lower orders to learn this lesson early, since no class can so ill afford to pay the entrance-money which experience levies on its grown-up scholars. They should be taught that it would really be as reasonable to set up a title by occupancy to an acre of land, as to a covey of partridges at the present day. Those odious boards that peep over a hedge, and tell us travellers on life's dusty turnpike, that there is 'no thoroughfare,' or that 'trespassers will be prosecuted according to law,' are in truth but signs of civilization. We must consent to hail them as such, like the sailor, who, being shipwrecked on an unknown coast, thanked God when he saw a gallows, for having cast him among a just and polished people. The humble classes, whether in town or country, have a hold on the sympathy of every tolerably gentle nature; especially for the way in which they seem displaced so frequently, by the broad movement and inexplicable machinery of a great community. In London, for instance, the poor man has no chance of ever getting a further knowledge what fresh air is like, or what is meant by the country, than the New Road, or Covent Garden market, show him. In the country, enclosures have left him scarce a common for his goose, or a green for his children. It was in vain, however, when the drainage was begun in Lincolnshire, (that county which Henry VIII. called so justly, 'the most brute and beastly shire of all my realm,') that its inhabitants rose up in behalf of the ague and the wild-duck, singing, 'Let's be men, and we'll enjoy our Holland fen.' The Crowlanders were obliged to submit to the reformation of their land, as they had been formerly to that of their religion. But whatever com-



compensation can be introduced for these privations and exclusions, which seem to raise a disproportionate share of the penalties of civilization from the pittance of the poor, it is imperative on the justice of society to secure for them education, rational and accessible; encouragement, by all available institutions and examples, to independence, both of circumstances and of character; a clergy, that shall be as often in the cottage as at the hall, and who shall not forget, that Christianity was to be preached especially to the poor; and (not least, nor last,) an earnest watching of the times, and a daily interrogating of every law in its connexion with the condition, feelings, and tendencies of the people. Thus alone can our Legislature be spared the abomination of positively creating the crimes it punishes; and of sowing, in the form of revolting statutes, those dragon's teeth, which rise back upon us in the shape of desperate and armed men.\*

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### COMMERCIAL MONOPOLY OF THE EAST INDIA COMPANY.— CHINESE QUESTION.†

WHEN the charter of the East India Company was renewed in 1813, British subjects, in general, were allowed to participate in the trade to Hindostan, and some other parts of the East, from which they had been previously excluded; but they were, at the same time, strictly prohibited from carrying on any sort of intercourse with the Chinese empire. The monopoly of the trade with this vast country, the only one whence supplies of tea can be obtained, was continued to the East India Company; who, by this means, secured, in effect, a monopoly of the trade to Siam, Cochin-China, Tonquin, the Corea, East Tartary, the Japan and Philippine Islands, &c., to the successful prosecution of which a participation in the China trade is indispensable. The countries, the commerce of which is thus either actually or virtually monopolized by the company, to the exclusion of other British subjects, abound in an endless variety of the most valuable productions, their population amounts to about *a third part of the whole human race*, and they possess an almost incalculable extent of sea coast. Few, if any, trading associations ever succeeded in getting their countrymen excluded from so vast and so profitable a field for carrying on commercial pursuits. We do not, however, say, that there may not be reasons to justify this exclusion;—to justify granting to the 2,500 partners of the East India Company, and refusing to the other 25 millions of British subjects, a right to trade with the Chinese world. But these reasons, if they really exist, cannot be difficult to discover. They must be clear, convincing, and decisive. ‘*Commercium*,’ says the greatest of English lawyers, ‘*jure gentium, commune esse debet, ET NON IN MONOPOLIUM, ET PRIVATUM PAULOLORUM QUESTUM CONVERTENDUM.*’ To justify their monopoly, the Company must not merely show that they have conducted the trade to China on fair and

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\* Other articles on the Game Laws will be found in Vol. xxxi. p. 295. Vol. xxxv. pp. 123. 410. Vol. xxxix. p. 43. Vol. xliii. p. 248.

† Reports from, and Minutes of Evidence taken before, the Select Committees of the Houses of Lords and Commons on the Affairs of the East India Company.—Vol. lii. p. 281. January, 1831.



liberal principles, but that it is not one that could be carried on to the same extent, or the same advantage to the public, by other adventurers. If they fail to establish both these points, the policy of throwing the trade open, will be no longer doubtful. It would be the extreme of tyranny to deprive the public of the rights and privileges to which they are naturally entitled, unless it can be satisfactorily demonstrated that very serious injury and inconvenience would result from their exercise.

This, therefore, is really a question of fact and experiment. How have the East India Company conducted the trade to China, and the other countries to the east of Malacca? Have the tea, and other commodities they import, been sold at the same prices they would be sold for were the trade open? Is there any thing in the character or institutions of the Chinese to render it impracticable to carry on the same free intercourse with them that is maintained with every other people? Have the Company prosecuted the trade to the same extent, and with the same advantage, that it would be prosecuted by individuals? We shall endeavour, as briefly as possible, practically to enquire into the answers that ought to be made to these questions.

I. With respect to the question as to the prices charged by the Company for the products they import from China, we may remark, at the outset, that nothing but the most conclusive evidence to the contrary will serve to convince any reasonable person that they are not far higher than they would be were the trade open. All individuals and associations naturally exert themselves to obtain the highest possible price for whatever they have to sell. And it is found that those who are protected from the competition of others, or who have obtained a monopoly of any market, invariably raise the price of their commodities to a very high pitch. Their object has not been to make a moderate profit upon a large adventure, but to make an enormous profit on a small adventure; and they have resorted to every device, even to the burning of a portion of their goods, to accomplish this their darling object. Now, as the East India Company have obtained, in virtue of their monopoly of the China trade, the exclusive supply of the British markets with tea, the fair presumption is, that they have raised its price to an unnatural level. In supposing that they have done this, we do not suppose that they are either better or worse than others. We merely suppose that they have acted as all associations have done when placed under nearly similar circumstances; or that they have availed themselves of their privileges to promote their own peculiar interests. So reasonable an inference is not to be defeated, except by direct and unimpeachable evidence.

But, as was to be expected, the Company neither have brought, nor can bring forward, any such evidence. Facts and principles are equally against them. Not only is it reasonable to suppose that they have sold their teas, &c. at a much higher price than they would have been sold for had there been no monopoly, but this conclusion is confirmed by the strongest testimony,—by facts which it is quite impossible to controvert, or even question.

The means of deciding as to the use which the Company have made of their monopoly, are accessible to every one. Though they have succeeded in getting their countrymen excluded from the trade to China, they have not, fortunately, been able to extend this exclusion to



foreigners. The merchants of Liverpool and Glasgow dare not send a single ship to Canton, or import a single pound of tea; but the merchants of New York and Hamburgh labour under no such prohibition. They engage in the trade to China, as they engage in that to France, Brazil, or any other country, and conduct it on the principle of free and unfettered competition. Here, then, we have an unerring standard by which to try the proceedings of the Company. If they be really as self-denying as their apologists would have us to believe, the prices at which they sell teas will not be higher than those at which they are sold in the great trading cities not subjected to any monopoly; for no one has ever ventured to contend that there either is or can be any reason, other than the difference between a free and a monopoly system, why the price of tea should materially differ in London from its price in Hamburgh, New York, &c.

Accounts of the quantities of the different sorts of tea sold at the East India Company's sales, and the prices at which they were sold, from 1814-15 to 1828-29, have been printed by order of the House of Commons. (Parliamentary Papers, No. 22, Session 1830.) Now, to determine whether the prices charged by the Company be excessive or not, we have only to compare those given in this account, with the prices of similar teas at Hamburgh, New York, &c., as deduced from the Price Currents published in those cities. But in so far as regards the year 1828-29, we are furnished *officially* with the means of comparing our prices with those of foreigners. In order partly to obviate any cavils that might be made as to the statements in Price Currents, and partly, as will afterwards be seen, for other purposes, letters were sent in 1829, by direction of the Board of Control, to most of our Consuls at the principal foreign emporia, directing them to purchase and send home samples of the different species of tea in ordinary use in those places, with a note of their prices, &c. These prices were afterwards submitted, by order of the Committee of the House of Lords, to Dr. Kelly, the author of the *Cambist*, who converted them into equivalent ones in sterling money per pound weight. Comparing, therefore, the prices and quantities of teas sold by the Company in 1828-29, with the prices of the same descriptions of teas at Hamburgh, the results are as follow:—

*Comparative Account of the Prices of Tea at London and Hamburgh.*

Species of Tea	Company's selling price, per pound, in 1828-29.		Prices at Hamburgh, per pound, in 1828-29.		Excess of Company's prices over those of Hamburgh.		Excess of Hamburgh prices over those of the Company.	
	s.	d.	s.	d.	s.	d.	s.	d.
Bohea -	1	6½	0	8½	0	10	—	—
Congou -	2	4	1	2½	1	3½	—	—
Campoi -	2	9	1	2	1	7	—	—
Souchong	2	10¼	1	1¾	1	8½	—	—
Pekoe -	3	9¼	4	6¾	—	—	0	9½
Twankay -	2	5½	1	2¼	1	3¼	—	—
Hyson-skin	2	4	0	11¼	1	4¾	—	—
Hyson -	4	1¾	2	8	1	5¾	—	—
Gunpowder	6	6½	3	5½	3	1	—	—

Now, it will be observed, that with the exception of Pekoe, the prices of all the Company's teas exceed the prices of the samples bought at Hamburgh by the Board of Control; and, therefore, to determine the total sum which the tea monopoly costs the people of Britain, we have only to multiply the quantities of the different teas (with the exception of Pekoe) disposed of at the Company's sales by the excess of their prices over those of Hamburgh, and to deduct from this sum the quantity of Pekoe, multiplied by the excess of the Hamburgh price over that of the Company. — The account stands as follows:

Species of Tea.	Quantities of Tea sold by the Company in 1828-29.	Excess of Company's price per pound, over price at Hamburgh. (Neglecting fractions of a penny )		Excess of price received by the Company.
	<i>lbs.</i>	<i>s.</i>	<i>d.</i>	<i>£</i>
Bohea -	3,778,012	0	10	157,417
Congou -	20,142,073	1	3	1,258,878
Campoi -	284,187	1	7	23,673
Souchong -	601,739	1	8	37,607
Twankay -	4,101,845	1	3	273,456
Hyson-skin -	213,933	1	4	14,261
Hyson -	1,014,923	1	5	71,889
Gunpowder -	645	3	1	98
				<hr/> 1,837,279
	Deduct Pekoe, 131,281 lbs. at 9d.			- 4,923
Total excess of price received by the Company over and above the price of similar teas at Hamburgh,				<hr/> 1,832,356

We may further remark, that Mr. Thornely, a very intelligent merchant of Liverpool, has deduced, from a careful calculation of the prime cost of tea in China, and the expense of freight, insurance, &c. the excess of price charged by the Company at 1,727,934*l.* Mr. Rickards's calculations give very nearly the same results.

It appears from this authentic comparison of the accounts rendered by the East India Company, with those furnished by the Board of Control, that the Company sold their teas in 1828-29, for the immense sum of 1,832,356*l.* more than they would have fetched had the trade been free! From the same official accounts rendered by the Company, it also appears, that the *average* price of the different sorts of tea sold by them in 1828-29, amounted to 2*s.* 4*d.* per lib.; and it appears from the statements now laid before the reader, that the average excess of the price of the Company's teas, over the price of the teas sold at Hamburgh, amounts to 1*s.* 3*d.* per lib., being an excess of more than FIFTY-THREE per cent. It is clear, therefore, how much soever it may be at variance with their professions, that the Company have not been more scrupulous than others in availing themselves of their power to exact exorbitant prices. Every one knows that the Dutch East India Company have been deservedly held up to the execration of all Europe, because of the violent means to which they had recourse to force up



the price of cinnamon, mace, and nutmegs. Although, however, they had raised the price of such articles to a guinea a-pound, the injury thence arising to the Hollanders would have been trifling, compared to the injury done to the English, by adding 53 per cent. to the cost of tea. Spices are luxuries. But in this country, at least, tea has long ago ceased to belong to this description of commodities; it has become an almost indispensable necessary of life, and is, at present, far more extensively used by the lower and middle, than by the more opulent classes. Hence, if we estimate the Dutch and English East India monopolies by their *effects*, ours will be found to be decidedly the more objectionable of the two.

But the Company's advocates are not easily driven from any position. We admit, say they, that it would appear, on the face of such accounts as the above, that the Company sell their teas at an enormously enhanced price; but nothing can be more fallacious. The teas sold by the Company are, they allege, incomparably superior in point of *quality* to those to be met with on the Continent or the United States; and this, they add, is the natural result of our mode of managing the trade at Canton, where, we are told, the Company's agents have the choice of all the teas brought to market; the Americans and other foreigners being obliged to content themselves with the damaged samples, with the refuse, in fact, that is thrown aside by the Company. Those who brought forward this statement, imagined, no doubt, that they had made a masterly diversion in favour of the Company, and that by withdrawing the public attention from accounts of sales and the statements in Price Currents, to fix it on an unprofitable and endless discussion about *tastes* and *qualities*, comparatively little opposition would be made to a renewal of the monopoly. But this ingenious scheme has been totally subverted; and, what is yet more galling, it has been subverted by those to whom the Company looked up for support. The Delegates from Manchester, Liverpool, and Glasgow, had nothing to do in the matter. The Board of Control has the merit of having proved, to the conviction of every one, that the teas sold by the Company, instead of being superior, are actually inferior to those sold by the free traders on the Continent and in America.

We have already alluded to the circumstance of the Board having ordered samples of tea to be purchased and sent home from a great variety of foreign markets. When brought home, the Board of Control, desirous, we presume, of doing a service to the Company by demonstrating the truth of their statements as to the superiority of their teas, had the samples submitted to the inspection of the most skilful tea-brokers of London, who were requested to fix the prices which they supposed they would bring at the Company's sales. Nothing, it is clear, could be fairer than this proceeding. The brokers knew nothing of the prices paid by the Board of Control for the teas, neither did they know whence they came, or for what object they were called upon to decide as to their qualities. They could not, therefore, have any bias one way or another; so that their decision was that of the most unprejudiced, and at the same time the most intelligent, judges that could be selected.

The results of the award of this most competent tribunal will be seen in the following comparison:—

Species of Tea.	Prices at the Company's sales in 1828-29.	Prices of samples bought at Ham- burgh as fixed by the brokers.
Bohea -	1s. 6 $\frac{1}{2}$ d. per pound.	1s. 4 $\frac{1}{2}$ d. per pound.
Congou -	2 4 —	2 3 $\frac{3}{4}$ —
Campoi -	2 9 —	2 0 $\frac{3}{4}$ —
Souchong -	2 10 $\frac{1}{4}$ —	2 1 $\frac{3}{4}$ —
Pekoe -	3 9 $\frac{1}{4}$ —	6 8 —
Twankay -	2 5 $\frac{1}{2}$ —	2 8 —
Hyson skin -	2 4 —	2 2 $\frac{1}{4}$ —
Hyson -	4 1 $\frac{3}{4}$ —	4 3 —
Gunpowder -	6 6 $\frac{1}{2}$ —	5 6 —

It appears from this decisive statement, that the common teas, such as bohea and congou, sold at Hamburgh, are about as good as those sold at the Company's sales; and that most of the finer teas, as pekoe, twankay, hyson, &c. are decidedly better. Let us, therefore, hear no more as to the superior quality of the Company's teas. Those who would vindicate their monopoly must take up other grounds than this. The fact is demonstrated that the Company sell their teas for 53 per cent. more than they would be sold for were the trade open; and that the teas for which they exact this monstrous overcharge, are, speaking generally, of a comparatively *inferior quality*.

It is not even true to say that the Company, in raising the price of their teas to so exorbitant a pitch, are merely availing themselves of a privilege conceded to them by the legislature. The fact is, that they have acted, if not in opposition to the letter, at least in the teeth of the spirit, of the acts which secure them their monopoly. The ministers of George II. and George III. were not quite so confiding as those of George IV. In 1745 a great deduction was made from the duty on tea; and to prevent the effect of this deduction being defeated by the Company, an act was passed (18 Geo. II. cap. 26) for the regulation of the tea trade, which declared, that *in the event of the quantity of tea imported by the Company not being sufficient to keep its price ON AN EQUALITY WITH THE PRICE THEREOF IN THE NEIGHBOURING CONTINENTAL MARKETS, it should be lawful for the Lords of the Treasury to grant licences to private merchants to import tea from any port in Europe*. So long as this judicious statute continued in force, it was impossible for the Company materially to abuse their monopoly without the concurrence of the Treasury.

The same well-founded jealousy which had dictated the act of 1745, was again displayed in 1784 in the proceedings with respect to the famous *commutation act*. (24 Geo. III. cap. 38.) It is provided by this statute that there shall be, at least, four sales each year, at which there shall be put up such quantities of tea as shall be judged equal to the demand; that the tea so put up shall be sold to the highest bidder, if an advance of one penny per pound be offered on the putting-up price; and that it shall not be lawful for the 'Company to put up their tea for 'sale at any prices which shall, upon the whole of the teas so put up, 'exceed the *prime cost* thereof, with the freight and charges of importation, together with lawful interest from the time of the arrival of 'such tea in Great Britain, and the common premium of insurance, as a 'compensation for the sea risk incurred thereon; and it is further ordered



that the Company shall lay before the Lords of the Treasury copies of the accounts and estimates upon which the orders for importation, prices for sale, and quantities put up to sale, shall be grounded.

The object which led Mr. Pitt to insert the clauses in question is obvious. It was to compel the Company to sell their teas for a reasonable profit, and to prevent their monopoly becoming very injurious to the public. The Company, however, had not the slightest difficulty in defeating these precautions;—first, by making various additions to the prime cost, which they ought not to have made, but which the Treasury, had they been so disposed, could not disallow; and second, by nullifying the obligation imposed upon them of selling their teas at one penny advance upon the upset price. A very few remarks will be sufficient to illustrate what has now been stated.

1. The company have always charged the cost of the factory at Canton to the price of their teas. And such of our readers as are not very conversant with enquiries of this sort, may, perhaps, think that this cannot be a matter of much importance either one way or another. But those who take the trouble of enquiring a little into the matter, will, we apprehend, come to a very different conclusion. The fact is, how extraordinary soever it may appear, that the factory in question costs *nearly as much as is required to defray the entire expense of the civil government of Scotland!* The following extract from Mr. Walter Hamilton's East India Gazetteer, a work of the very highest authority, and patronised by the Company, shows that the statement just made is any thing but exaggerated. ‘The establishment of the East India Company here [Canton], consists of *twelve* supercargoes, and *eight* writers. ‘The latter have a small annual allowance and a free table; and they ‘succeed in rotation to the situations of the former, who have also a ‘free table, and annually divide among themselves, in shares proportioned to their seniority, a sum seldom falling short of 80,000*l.* This ‘arises from a per-centage on the import and export cargoes, producing ‘to the chief, on an average, 8,600*l.* per annum; and to the first, second, ‘and third members of the select committee, above 7,100*l.* The senior ‘supercargo has about 6,000*l.* per annum, and the juniors in proportion, ‘declining on a graduated scale; but none of the supercargoes has less ‘than 1,500*l.* per annum. Having, in addition to this, the accommodation of a free house and table, they may be considered as *the best paid servants in the world.* The services to be performed for this liberal ‘remuneration consist in a residence for three or four months every ‘year at Canton, during the season of intercourse with the Hong or ‘general merchants, to whom they deliver the imported goods, and ‘receive the teas and other return produce. When the business of ‘the season is finished, the ships laden and despatched to England, ‘they retire to Macao, where they remain for the rest of the year.’ This striking paragraph was published in 1815; and though the value of the Company's imports and exports at Canton has not since been increased, the money payments that now fall to be divided among this lucky *coterie* are larger. In 1826-27 the total expense of the factory amounted to 105,044*l.*; and in 1828-29, it amounted to 89,086*l.*, which would give to each of the twenty gentlemen of which it consists an *average income* of about 4,500*l.* a-year for doing — next to nothing. At least the American captains do all that our supercargoes do, and do it infinitely better.

That so flagrant an abuse should have been tolerated for so long a period, is indeed astonishing; but it will be far more astonishing should its existence be prolonged. The factory is neither more nor less than a convenient device for enriching the sons, brothers, and near relations of the directors; who, after living for a dozen years in luxurious idleness at Canton and Macao, return with overgrown fortunes wrung from the pockets of the tea-drinkers of England, by whom, and not by the Company, the entire expense of the factory is paid. The circumstances now mentioned are as notorious as the existence of the Company itself, and might, one should have thought, have saved the parliament of England the trouble of entering upon a lengthened enquiry to ascertain whether the Company sell their teas as cheap as they could be sold by private merchants under a free system.

But this is not the only nor even the most objectionable of the modes by which the Company augment the upset price of their tea. Their whole conduct as merchants is a tissue of the most unmeasured extravagance. They were long in the habit of paying 26*l.* 10*s.* of freight for such ships as they chartered, while private merchants were not paying more than 8*l.* or 10*l.* per ton; and although the Company have latterly reduced their freights, they are still about 100 per cent. higher than the current rates.

It would have been well, however, had they confined themselves to proceedings of this sort; but this is what they have not done. The cost of tea and other articles at Canton is estimated by the *tael* or *tale* of silver, which is equal to .5798 lib. troy weight. Now, it was proved before the committee of the House of Commons, that, in 1828-29, bills were drawn at Canton upon London, at the rate of 4*s.* the dollar, equivalent to 5*s.* 6 $\frac{2}{3}$ *d.* per tale, at which rate, of course, the tale ought to have been reckoned in the Company's account of the cost of tea. But instead of this, they reckoned the tale at 6*s.* 4 $\frac{1}{2}$ *d.*, being about 10*d.* more than its real worth at the time; so that all the accounts in which it was referred to were elevated about 14 per cent. above their true amount. This fact seems, as well it might, to have made a strong impression on the Committee. The Company's witnesses laboured hard to explain it away; but we take leave to say, that it is inexplicable on any fair principle. It was argued that, taking the whole period of the present charter into account, the tale had, at an average, been valued by the Company more cheaply than it would have been according to the current rates of exchange. But the best mercantile authorities assure us that there is no good foundation for any such statement. And besides, the Company have no authority under the act of 1784, for reducing prices at one time below, and raising them at another above, their real amount. Their duty is to declare the *actual cost of the teas they are about to expose to sale*. Is there an individual who believes that supposititious items are ever introduced into accounts, except in order to render them more favourable to those by whom they are made up?

2. But not satisfied with thus defeating the regulation in the act of 1784, ordering them to put up their teas at prime cost, the Company have equally defeated the provision in the act, by which they are bound to sell their teas if 1*d.* per lib. of advance be bid upon the upset price. This, indeed, was a very easy task. Were the trade open, private merchants would endeavour to undersell each other; so that the price of tea, like that of sugar or coffee, would be reduced to the very lowest



point that would yield the sellers the customary rate of profit. But the Company is in an entirely different situation. Being the *only sellers*, they invariably *understock* the market. Instead of bringing forward, as they ought to do, were they either satisfied with moderate prices, or paid any respect to the spirit of the act, such quantities of tea as might occasion its sale at a small advance upon the upset price, they narrow the supply so much, that the price is raised to a much higher elevation. Now, it will be observed, that all that this dexterous management puts into the company's coffers is (or at least ought to be, unless it were swallowed up by extravagant expenditure at home) so much *extra profit*; for the putting-up price embraces every item that can fairly enter into the cost of the tea, including both *interest* on capital and insurance, and including also, as we have shown, many items that have nothing to do with it. To show the extent to which this source of profit is cultivated, it is only necessary to mention, that at the June sale in the present year (1830), at the very moment when the Parliamentary Committees were sitting, the Company put up Congou (which forms *two thirds* of all the teas consumed in the empire) at 1s. 8d. and 2s. 1d. per lib.; the lowest sort, or that put up at 1s. 8d. being sold partly at 2s. 1½d., being an advance of *twenty-two and a half* per cent., and partly at 2s. 5d., being an advance of FORTY-FIVE per cent.; while the highest sort, or that put up at 2s. 1d., was sold partly at 2s. 2d., being an advance of *four* per cent., and partly at 3s. 7d., being an advance of no less than SEVENTY-TWO per cent. above the upset price, that is, above a price calculated to yield *ordinary profits*. Mr. Mills, an intelligent tea broker, in a minute calculation laid before the Lords' Committee, shows that the advance on the teas sold at the Company's last June sale above the putting-up price, amounted in all to £122,177 18s. 1d.; and as there are four such sales in the year, the total advance may be estimated at about £500,000! And the Company's advocates admit that this excess is very considerably less than it was three or four years since.

We may remark, by the way, that it was doubtful whether the act of 1784 had repealed the act of 1745, already referred to. Counsel, consulted by the merchants, said that it was still in force; and, in consequence of this opinion, petitions were sent, in 1823, to the Treasury, quoting the prices of tea at Hamburgh and Amsterdam, and praying, according to the provisions of the act of 1745, that licence might be granted them to import teas from the Continent. This proceeding excited great alarm in Leadenhall Street. The Company contended that the act of 1745 had been superseded; but instead of allowing the question to be decided in a court of law, they contrived, by a system of management that reflects great credit on them, whatever it may do on others, to get a clause quietly inserted into the act, 4th Geo. IV. cap. 80, declaring that none save the Company had authority to import tea into Great Britain.

The preceding statements have completely established, 1st, That the East India Company have raised the price of their teas to so exorbitant a pitch, that they cost the people of Britain 1,800,000*l.* a-year more than they would do were the trade open. 2d, That the teas so overcharged are in no respect superior in point of quality to those used in the United States and the Continent; and, 3d, That the Company have defeated the regulations in the act of 1784, intended to oblige them to put up their tea at its cost price, and to sell it at a



small advance ; — the former, by including in its cost several heavy items that ought not to be included, and by improperly increasing others ; and the latter, by understocking the market, and securing a large advance on the upset price. We doubt whether it be possible to produce an instance of a monopoly that has been more abused.

II. But the more skilful or cunning of the Company's advocates do not pretend that they sell their tea as cheap as it would be sold were the trade open. They take another ground. They affect the utmost candour, and admit that abuses exist in the monopoly, and some of them go so far as to say that they are inseparable from it ; but they contend that the existence of the monopoly is indispensable to the existence of the trade ; that the Chinese are a peculiar people, whose habits and modes of thinking and acting are quite different from those of other nations ; that the East India Company have luckily found out the secret of managing them ; but that private traders would infallibly get embroiled ; and that were the experiment of opening the trade once made, the inevitable consequence would be, that we should, in a very short time, be driven from the Chinese markets, losing at one and the same time our supplies of tea, and the revenue of about 3,200,000*l.* derived from it.

Even before the schoolmaster was abroad, such statements would, we apprehend, have been listened to with suspicion. They might do very well in Dahomey or Spain, but they are rather too much for the meridian of London. Has not the experience of the Americans decided this question ? Are they not private traders, influenced solely by the love of gain ? And have they ever, during the *forty-six* years that they have traded to China, been seriously embroiled with the natives, or suffered half as many interruptions to their commerce as we have done ? The truth is, that the Chinese, though in many respects a peculiar, are *a highly commercial people*. They are the great traders of the Eastern archipelago. Vast numbers of them are settled at Batavia, Singapore, and other commercial emporia, and are all actively engaged in trade, or in some species of useful industry. They are in the Eastern what the Hollanders are, or rather were, in the Western world. Numbers of Chinese ships, or, as they are called, junks, some of them of 800 and 1,000 tons burden, annually sail from the southern ports of the empire, laden with the most precious commodities, to Java, Borneo, Celebes, Singapore, &c. And, notwithstanding the statements so often rung in our ears as to the anti-commercial character of the Chinese, it is a fact, that they have at this moment a far larger amount of tonnage engaged, under a system of free competition in the trade with the Indian archipelago, than the East India Company employ in their trade with China, notwithstanding their possession of the monopoly of the British markets !

Even were the Chinese government hostile to foreign commerce, which they are not, they are without the means of putting a stop to it, or even of subjecting it to any very serious difficulties. Our pedantic James I. was not more hostile to tobacco than the Chinese monarchs are to opium. They have prohibited it in every possible way, and denounced the severest punishments against those attempting to introduce it into the Celestial Empire, as well as those selling or using it there. And yet in the teeth of these edicts, opium is used in every corner of the country, and public smoking houses are to be met with in



every large city. It is carried to China by all descriptions of foreigners except the East India Company, (who, forsooth, are *above smuggling*, though they prepare the opium expressly for the smuggler,) and landed in open day, without the slightest interruption from the custom-house officers. Such is the respect entertained in China for edicts intended to suppress a lucrative branch of commerce. And such being the case with respect to opium, what grounds are there for supposing that the result would be different in the case of tea? The prosperity of extensive districts, and of a very large population, is, to a great extent, dependent on its exportation; and it is sufficiently proved, in the evidence before us, that, if Europeans did not go to Canton to take on board tea, the Chinese would not fail to send it to them at Singapore and Batavia. All the sanguinary laws by which we formerly attempted to hinder the exportation of wool were ineffectual to their object; and is it to be believed that the restrictions of an imbecile government like that of China should be better obeyed?

But, as has been already remarked, it is needless to argue a question speculatively that has been decided experimentally. The Americans, Dutch, Danes, &c., trade to China as they trade to any other country, and meet with no interruption or obstacle of any sort. Till this fact can be controverted, there is an end of the question.

It may be as well, perhaps, before going further, to say something of the *Hong*, or *Cohong*, merchants. This body is one of the bugbears held up by the Company to make those unacquainted with the circumstances believe, that there is something in the Chinese institutions to justify their monopoly. The fact is, that the Chinese government continues wedded to those maxims of commercial policy to which Mr. Sadler has lent the sanction of his authority. They have not, indeed, attempted to suppress foreign trade, but they have subjected it to certain regulations. Among others, they have established, not in Canton only, but in every port of the empire, a limited number of persons denominated *Hong* or *security* merchants; and every foreign ship must, on her arrival, get one of these merchants to become security for the import and export duties payable on the inward and outward cargoes, and for the conduct of the crew. It may be supposed, perhaps, that difficulties are occasionally experienced before such surety is obtained. But such is not really the case. Not the least hesitation has ever been evinced by a Hong merchant about securing a ship. The Americans, who have had as many as *forty* ships in one year in China, have never met with a refusal. The captain of a merchant ship may resort to any Hong merchant he pleases, and, by way of making him some return for his becoming surety, he generally buys from him 100*l.* or 200*l.* worth of goods. Individuals are, however, at perfect liberty to deal with any Hong merchant, whether he has secured their ship or not, or with any *outside merchant*, that is, with any Chinese merchant not belonging to the Hong. So that, though there are only eight or ten Hong merchants at Canton, there is, notwithstanding, quite as extensive a choice of merchants with whom to deal in that city as in Liverpool or New York.

The East India Company are the only foreigners trading to China who never deal except with the Hong merchants. The Company's factory at Canton divide their business among them in shares at their own option; the profit accruing upon which is very considerable. We need not, therefore, be surprised to learn that the Company have considerable influence with the Hong merchants, and neither need we be



surprised to learn the use they have attempted to make of it. The substantially free trade carried on at Canton has been established, not merely without any assistance from them, but in despite of their machinations. The Americans, by dealing for the most part with the outside merchants, had virtually set aside the Hong merchants, and, by so doing, had very much increased the facilities for carrying on an advantageous trade. The pampered servants employed by the Company at Canton, instead of endeavouring to oppose the competition of the Americans by increased activity, deemed it a more congenial course to stimulate the Hong merchants to petition the viceroy to prevent the Americans from dealing with the outside merchants. The Hong merchants are said to have entered with reluctance into this precious scheme. But, be that as it may, the proclamation which the viceroy issued upon the subject, in 1828, was as little regarded as his imperial master's edicts against opium. The trade speedily returned to its old channels. And at this moment, dealings may be as easily, and as openly and avowedly, carried on with the outside merchants as with the Hong merchants.

We shall now lay before our readers a few extracts from the evidence taken by the late committees, in corroboration of the previous statements. We are sure we need make no apology for their length, but have rather to regret that our limits will not allow us to extend them.

The first witness from whose evidence we shall quote is Mr. Abel Coffin, the commander of an American ship of about 400 tons burden, in which he had made three voyages to China.

‘ Do the Americans experience any difficulty in carrying on the Chinese trade?—None that I have known.

‘ Will you have the goodness to give the Committee an account of the way in which you proceeded in conducting your transactions at Canton?—On the arrival of the ship at Wampo, the factor generally proceeds to Canton; there he calls upon the Hong merchants, or frequently the Hong merchants send their pursers to wait upon him on his arrival.

‘ Do they send down to the ship?—Not down to the ship, but to his place of business: he will then make an arrangement with one of the Hong merchants to secure his ship; and generally we agree to trade with that Hong merchant, *admitting that he will trade with us on as good terms as we can trade with any other merchant in general*: but we buy one-third or one-half of our cargo of him, and sometimes the whole.

‘ But do you not give more for teas you purchase of him than you give to others?—Not in any way; we give him no further advantage than a preference of trade, if we can trade equally well with him.

‘ Do you give him any fee or *douceur* to become the security for the ship?—Not any.

‘ Are there considerable facilities in the port of Canton for transacting business?—*There are more so than in any port I have ever been in in India.*

‘ Can you give the Committee any instance to prove that facility at the time you arrived there?—I arrived at Wampo on one voyage when I was both master and supercargo of the ship; and I lay at Wampo fifteen days, and loaded there, and sailed in that time.

‘ Can you give the Committee an account of any voyage you have performed?—I have here an extract of an American newspaper, giving



‘ an account of one of my voyages. It is headed “ Dispatch. The ship  
 ‘ Liverpool Packet, Captain Coffin, sailed from Boston on the 21st of  
 ‘ July 1824, for Canton; arrived there, changed his cargo, and returned  
 ‘ to Boston in eight months and twenty-nine days; afterwards sailed  
 ‘ for Amsterdam, and performed the voyage there and back to Boston  
 ‘ in seventy days, changing cargo: thus having completed two long  
 ‘ and important voyages in eleven months and sixteen days.”

‘ Is that an accurate account of the voyage you performed?—It is  
 ‘ one day longer than the voyage was. I was eight months and twenty  
 ‘ eight days, instead of twenty-nine days; that is the whole time from  
 ‘ the time I left Boston to the time I returned to Boston again.

‘ Did you load at Amsterdam?—I returned in ballast.

‘ Have you had any dealings with the outside merchants?—I have.  
 ‘ I have generally bought the greater part of my silk goods, and fre-  
 ‘ quently considerable quantities of tea, to complete my cargo, of the  
 ‘ outside merchants: generally an outside merchant has some Hong  
 ‘ merchant as his friend; goods are obliged to be shipped through one  
 ‘ of the Hong merchants. They are bought of the outside merchant;  
 ‘ and the probability is, that the outside merchant pays the Hong mer-  
 ‘ chant some trifling compensation for shipping his goods.

‘ Do you find any difficulty in dealing with the outside merchants?  
 ‘ —I never have, myself; but I have heard others say that there is not  
 ‘ that security in trading with them. You are more liable to be im-  
 ‘ posed upon; which is not the case with the Hong merchants.

‘ When at Canton, did you understand that the Americans received  
 ‘ any protection from the East India Company’s Factory?—I never  
 ‘ understood that they received any protection.

‘ Supposing that factory were withdrawn, do you think that the  
 ‘ situation of the Americans would be worse or better than it is at  
 ‘ present?—I think it would be quite as well; I cannot say that it  
 ‘ would be worse or better: it would make no difference.’

The next evidence is Mr. John Aken, the master of a ship trading  
 between India and China.

‘ Do you consider the charges on shipping at Canton to be high, or  
 ‘ otherwise?—I think they are very moderate, considering that there  
 ‘ is no more paid for a rich cargo than for a vessel arriving in ballast;  
 ‘ it is no matter what cargo you take there, the same duties are paid;  
 ‘ if you take a very rich cargo, the duties come to very little indeed.

‘ The port charges, then, do not vary in proportion to the value  
 ‘ of the cargo, but only to the admeasurement of the ship?—That  
 ‘ is all.

‘ Is there, or not, a facility in transacting business in the port of  
 ‘ Canton?—*Great facility.*

‘ Do you conceive there is as great facility in transacting business  
 ‘ in the port of Canton as in any other port with which you are ac-  
 ‘ quainted?—I think more.

‘ As much as there is in India?—A great deal more.

‘ Is there as much facility in transacting business in Canton as in  
 ‘ ports in England?—YES, AND A GREAT DEAL MORE.

‘ Why is it that you should say there is more facility?—You have  
 ‘ nothing to do but with one man; and when you once get your bar-  
 ‘ gain made, you have no trouble whatever.

‘ Do you conceive that the Hong merchants are liberal in their  
 ‘ dealings, or otherwise?—Very liberal.

‘ Should you place confidence in their honesty and honour?—I have every reason to believe *they are honest in every respect.*

‘ Do you find them cautious in making their bargains?—Very cautious.

‘ Did they adhere to those contracts which they entered into?—Yes; I scarcely ever knew of any person ever suffering by them at all.

‘ What should you say in that respect with regard to the outside merchants?—The outside merchants are people that you can scarcely ever tell what character they are of, unless you have dealt with them once or twice; if you deal with a stranger, you may be minus, and it often requires caution.

‘ Supposing you had had dealings with an outside merchant, and found him to be a man of respectability, you would then have no difficulty in dealing with him?—Not the least; *there are many of them that I have dealt with, that I would as soon deal with as any persons.*

‘ Do you consider the navigation to Canton easy?—Very easy.

‘ Have you ever had any unpleasant occurrence with your crew when at Canton?—Not any.

‘ Have you ever purchased any tea at Canton?—I have, both black and green.

‘ From whom have you purchased it?—Both from the Hong and the outside merchants.

‘ Have you ever found any difficulty in getting the tea you wanted to purchase?—*Not the least.*

‘ Is the tea, purchased as you have described, packed and sent on board by the merchant of whom it is purchased?—It is.

‘ And that merchant is responsible for the quality of the tea so sent?—When I have been purchasing from an outside merchant, I have generally wished to have a chest opened here and there, and he has been always very willing to do so, to examine it.

‘ Did you ever find any chest of tea inferior in quality to the sample which you have purchased?—*I never did.*

‘ Do you know whether any custom prevails in China of returning two chests for one when an adulterated chest of tea is given to the purchaser?—I have not heard of that; I have heard that there have been some tricks occasionally, but I believe in a very trifling degree.

‘ Do you conceive the tea that you purchased at Canton was as good, in proportion to the description of the tea, as that which you purchased in England?—*Equally so.*

The next witness from whose evidence we shall quote is Mr. Charles Hutchison, a commander in the navy, and recently the captain of a merchant ship of 600 tons burden, employed in the trade from Bombay to Canton.

‘ As you were three times at Canton engaged in those transactions of commerce, what should you say, from your opportunities of observing the character and habits of the people of China, as to their disposition with respect to intercourse with other countries, and carrying on trade generally?—They have a very great avidity to trade with every body they are permitted to trade with. *The merchants of China are extremely eager to trade with every one that comes into the country; more so than any people I have ever seen.*

‘ Do you mean to say that they are a speculative, trading, enterprising people?—Very much so; *beyond any others I have seen.*



‘ As they are disposed to favour trade, and to be speculative and enterprising in it, are they disposed to be accommodating, and to afford facilities in their intercourse?—I think the people themselves are in every possible way. The government takes every opportunity of extorting duties; but those duties are not changed; and so long as you carry on the trade in the regular way appointed by them, there is no sort of difficulty. Liverpool, which is one of the most expeditious ports for commerce in England, *is not to be compared with Canton for its facility*. In half an hour you may conclude a sale of a whole cargo of a ship, and the purchase of another, and you have no further trouble with it; with the Hong merchants particularly; the more creditable ones among them are very honest in their dealings.

‘ You say that the government take every opportunity of extorting duties. Had you ever an opportunity of observing whether other governments are slack in levying duties on trade?—Perhaps I was a little incorrect in the expression I used. *While you adhere to the regulations they have made, you have no fear of extortion*; but if you do any thing at all illegal, you are subject to very great extortion; and this extortion their own merchants are liable to if they commit any irregularity. They frequently make the Hong merchants pay fines for no real cause, but some pretended ones.

‘ Had you any dealings with the Hong merchants?—Yes, I had, but not to any great extent.

‘ Are there other merchants, exclusive of the Hong, with whom you can deal extensively?—A great many; and some have very extensive dealings; indeed many of them much larger than many of the Hong merchants, who are, in fact, nothing but a name.

‘ So that you might have sold or bought a cargo without having recourse to the Hong merchants beyond what was necessary for securing the ship?—Precisely so; it is frequently done.

‘ Were there many American ships at Canton at any period when you were there?—Yes; many come there every year.

‘ Had you any intercourse with the captains, or the supercargoes of those ships?—I saw them frequently.

‘ Did you ever hear of any complaint of any want of facility in carrying on the trade in China?—No; *I never heard any one complain of any want of facility in carrying on the trade*, as long as they adhere to the regulations of the country.

‘ Had you any opportunity of observing instances in which the Americans had to dispose of British-manufactured goods in China?—There were two ships arrived one season when I was there, I understood, entirely loaded with British manufactures. I did not see the actual disposal of them, but it was well known that they did dispose of them. They were, I believe, not of a very good description, and, consequently, they did not sell so advantageously as those of a better description would have done. I had some in my ship at the same time, which sold at a good profit; they had been bought in India at a profit, and they were sold again in China at a profit. These were British cotton manufactured goods, chiefly long cloths and cambrics. I have taken woollen cloths likewise.’

We shall now quote some passages from the important evidence of Mr. Joshua Bates:—After being connected for several years with the principal American houses in the China trade, Mr. Bates has more

recently engaged as an active partner in the great commercial house of Baring, Brothers, and Co., who are very extensively employed as agents for Americans in the same trade. No one, therefore, could be better informed with respect to China affairs, or more capable of giving an accurate opinion upon them. Mr. Bates says, that he considers that the American exports of tea from Canton amount to more than a third of the exports made by the Company. He agrees with the previously quoted witnesses in considering Canton as a port where business may be conducted with great facility and expedition, being, in his estimation, decidedly superior in both these respects to London. He then gives the following conclusive evidence as to the mode in which the Company manage the tea trade:—

‘ Have you ever made any calculation as to the cost to the British public of the teas now bought by the Company, and sold here, over and above that which they would pay if bought on private account? —I should say, *the teas cost the country about A MILLION AND A HALF more than they would if bought on private account.*

‘ Do you mean to say that the India Company derive a profit of a million and a half beyond what you consider would be a fair mercantile profit?—*Beyond a fair mercantile profit.*

‘ What would you consider to be a fair mercantile profit upon an article like tea, considering the distance it has to be brought, and the length of time that a person must lie out of his capital?—I should suppose twenty-five per cent. would be a fair mercantile profit on the Canton cost on the finer teas; perhaps the very coarse teas would bear rather more.

‘ Do you mean including freight and insurance?—After paying freight and insurance.

‘ Is that without taking into calculation any profit upon the outward cargo?—Without that. I mean to say, that on teas brought here, or brought to any market on the continent, twenty-five per cent. would be a remunerating profit.

‘ What should you consider the fair profit, as profit upon the use of the capital employed in such a trade?—Very small. It is *a very regular, certain trade*, and I should suppose that five per cent., beyond simple interest of the money, would be a fair profit.

‘ In calculating this million and a half, which you suppose the India Company to make beyond what you would consider a fair profit, do you take into consideration the expensive mode in which they conduct their operations; or do you mean to say only, that the tea costs the consumer a million and a half more than it ought to do, and yet afford a mercantile return to the free trader?—I cannot enter into the question as to the expense by their mode of getting teas here; *I only know what, in the course of the operations with which I am acquainted, the tea would cost me to deliver here. I think I could venture to contract to deliver it for ONE-THIRD LESS THAN THE COMPANY’S SALE PRICES IN LONDON.*

The advocates of the Company have declaimed loudly against what they have called, with a clearness and strength of expression peculiar to themselves, ‘ The wretched farrago of ignorance, falsehood, and vituperation, which has hitherto marked the progress of this question;’ and have said, that it was now high time that ‘ the opinions of those who have *some knowledge* of the subject should be listened to.’ We agree with them, that the opinions of such persons are entitled to the



greatest deference. And we therefore beg particularly to direct the attention of our readers to the above extract from Mr. Bates's evidence. Here we have a gentleman thoroughly versed in every department of the China trade, who has been far more largely engaged in it than almost any other individual, and who is a leading partner in the first commercial house in the world, declaring his conviction that he might venture to contract to supply the British public with teas for *one-third less* than they are supplied for by the Company. This evidence is perfectly decisive. The Company and their advocates know that it cannot be shaken; and every man of sense must be satisfied that it completely disposes of that part of the question to which it refers.

We shall quote a few passages from the evidence of Mr. John Deans, a very intelligent merchant, who resided *twenty* years in the Eastern archipelago.

‘ From your intercourse, during so many years, with the Chinese, can you state to the Committee, whether they are indifferent to foreign trade, or attach any importance to its advantages?—The Chinese of the Archipelago, who, I believe, do not differ from the Chinese in their native country, are very sensible of the importance of commerce, and are, as I have already observed, the keenest speculators perhaps in the country.

‘ Are you aware, whether the foreign commerce of China becomes a source of revenue to the Chinese government, and a matter of interest to the Chinese authorities?—The foreign commerce of China is very extensive; it exceeds, I believe, considerably 12,000,000 sterling; and, of course, although not altogether a legal commerce, still, from the greater part of it being so, the Chinese government derive a revenue, and a very considerable one, as I understand, from it.

‘ Have you reason to know in what light the European imports into China are considered by the Chinese people, or whether they could easily be dispensed with by them?—I know that *the imports to China are of far more importance to that empire than perhaps the teas to this country*, great as it is considered, inasmuch as the opium, which is now a very extensive article of import into China, is generally used there; and when once a person has been accustomed to the use of it, it cannot easily be dispensed with without danger to his health, and perhaps his life.

‘ Do you state that from your experience of the habits and customs of the Chinese people at Batavia and in the Archipelago?—I do. I had a great deal to do in the opium trade at Java, and of course saw a great deal of the use it was put to; and from my own observations of its effects, I can state, that those who have been long in the habit of using it, could not have dispensed with the use of it without serious injury to their health.

‘ Are you aware whether the use of opium is increasing?—It has increased very rapidly indeed in China. I saw a statement of the imports into China down to the beginning of 1829, which stated it to amount to nearly two millions of pounds weight, considerably exceeding two millions and a half sterling in value.

‘ Are the other articles imported into China articles of which the inhabitants could not be deprived without a considerable degree of inconvenience?—We may very easily judge of some of them. We ourselves could not well dispense with the spices, which are used in

‘ China as generally as in any other country. Some of them are articles of luxury, such as bird’s-nests, which are imported to a very considerable amount into China; also tripang and sinews of different animals are, of course, not perhaps indispensable, but as much so as the tea is to us from habit, among the grandees of the country; and the betel-nut, which is used very extensively in China, is also an article indispensable, to the lower orders in particular.

‘ From your experience of Java, and your knowledge of the increased consumption that took place in that island by the opening of the trade, what do you consider would be the effect of opening the trade to China itself, so far as relates to the consumption of European produce and manufacture?—The enterprize of British subjects in Java was very much aided indeed by the activity of the Chinese in conforming our manufactures to the tastes and habits of the people, and from the very rapid extension of the use of those manufactures, almost entirely superseding the native manufactures. I have not the least doubt but the same change would take place in China, making allowances of course for the difficulties that are attendant upon having only one legal port.

‘ At the time of the occupation of Java in 1811, in what manufactured articles were the inhabitants, Chinese and natives, clothed?—The natives were clothed in manufactures of their own partly, and partly in the manufactures of British India; the Chinese principally in Chinese manufactures.

‘ How long did this state of things continue?—It began to change at the opening of the trade in 1814; and in 1828, when I left Java, the natives were almost exclusively clothed in British manufactures, and the Chinese, very generally; still, of course, they used some Chinese manufactures, which we have not yet been able to imitate successfully.’

The next and only additional witness from whose evidence we shall at present make any extracts, is Captain John Mackie, who commanded a ship of 200 tons, engaged in the opium trade on the coast of China. This gentleman’s evidence is peculiarly worthy of attention, from his having frequented ports and districts of the country that are seldom visited by Europeans, and never by the Company’s ships. It will be seen, from what he states, that it is a radical mistake to suppose that no commerce can be carried on with the Chinese, except through the port of Canton. Captain Mackie traded everywhere along the coast, which abounds in the most excellent harbours; he and his crew were, in all cases, most hospitably received by the natives, who were everywhere desirous of entering into commercial adventures, and of furnishing themselves with European goods.

Captain Mackie’s ship was the property of Spaniards, and carried Spanish colours, but the cargo belonged entirely to British merchants.

‘ Can you state any other ports in China that you touched at besides Amoy?—Not any other principal ports; I touched at all the ports between Amoy and Canton.

‘ You lay off some ports, did not you?—I lay off the port called the Cape of Good Hope and the island of Namoo.

‘ At what distance is the Cape of Good Hope from Canton?—About 300 miles to the north-east.

‘ Did you find good shelter for your ship?—Excellent; all those harbours are as safe as the port of Canton itself.



‘ Was the trade you carried on authorized by the laws of China?—  
‘ I understood it was not authorized; but it was done quite openly.

‘ In the same way that the opium trade is carried on at Canton?—  
‘ The very same.

‘ Have you ever experienced any difficulty in carrying on the trade,  
‘ although not formally sanctioned by the Chinese laws?—Never the  
‘ least.

‘ Who were the parties with whom your trade was carried on?—The  
‘ Chinese merchants.

‘ Resident at any particular points?—Some of them from the city  
‘ of Amoy, some from Ta-ho and Namoo, and some from inland  
‘ towns.

‘ Are any of those places in the province of Fokien?—Amoy is in  
‘ the province of Fokien. I am not aware whether Namoo is in the  
‘ province of Fokien or not.

‘ Have you got better prices for those articles than could be got at  
‘ Canton?—Yes.

‘ What was the difference of the price?—About 100 dollars upon a  
‘ chest of opium, or 125, and sometimes 150, and sometimes higher.

‘ What did you receive for your cargo?—Sycee silver and dollars  
‘ entirely.

‘ Why did you make your returns in bullion only?—I was particu-  
‘ larly desired by the agents of the brig to take nothing else.

‘ Could you have had returns in the produce of the country?—I  
‘ could have had returns in the produce of the provinces, such as  
‘ sugar, tea, cassia, tortoise-shell, nankeens, or any thing that could  
‘ be had.

‘ You would have had no difficulty in completing your cargo of those  
‘ articles?—Not the least.

‘ In what manner is the produce of the north-eastern provinces sent  
‘ to Canton?—I presume it is principally sent by sea, from the number  
‘ of large junks always upon the coast.

‘ Have you seen any teas sent by sea?—Yes; I have been on board  
‘ of two junks entirely loaded with tea.

‘ What was the size of them?—They could not have been less than  
‘ 200 tons.

‘ From whence did they come?—They came from Amoy, and they  
‘ were bound to Canton.

‘ Did you board those junks?—I boarded both of them, and sent  
‘ letters by them to Canton.

‘ Were those letters regularly received?—They were received in  
‘ due course.

‘ Do you think you could have loaded your vessel with teas of good  
‘ quality?—*I have no doubt I could of the very best quality. I have no  
‘ doubt I could have had any sort of Chinese produce that I wished.*

‘ Had you any conversation with the captains or supercargoes of  
‘ the junks?—Yes; one of them, a merchant, gave me an invitation to  
‘ wait upon him at his house at Canton.

‘ Do you think you could have disposed of any other article besides  
‘ those you sold at the places you visited?—Yes: I think woollens  
‘ might have been disposed of, and perhaps a small quantity of iron, a  
‘ few watches, and different kinds of things.

‘ What species of woollens do you think you could have disposed  
‘ of?—Principally long-ells and fine broadcloths; blankets and camlets

‘ also would have sold very well ; they are in ready demand all along the coast of China.

‘ Were there any duties paid to the government upon those cargoes ? —I never paid any duties ; but I understood, that upon all opium that is taken away from the ships, the inferior officers of government get about twenty dollars for every chest ; the Chinese pay that themselves ; the ships pay nothing.

‘ Did you ever pay any port charges of any kind ?—Never.

‘ Were you ever annoyed by the Chinese authorities ?—No ; I have been requested, as a favour, to shift my situation, as the principal officer was coming ; and I have gone away, and come back again in one or two days.

‘ Have you ever landed when you were engaged in this trade ?—Frequently ; almost every day.

‘ Whenever you liked ?—To any place I liked.

‘ Were you, on such occasions, ever annoyed or ill-treated by the authorities, or by the people ?—Never ; *quite the contrary ; I was always received in a civil way. I had invitations into their houses, and was treated with tea and sweetmeats.*

‘ How far have you penetrated into the interior of the country ?—Six or seven miles.

‘ Could you have gone farther if you had pleased ?—Any distance I pleased.

‘ What cities or towns have you visited on such occasions ?—I visited the city of Kesiak, and the city of Amoy. The city of Tyho was too far distant from the ship, and I did not visit it.

‘ Is Kesiak a large town ?—It is.

‘ What is the population of it ?—It is impossible to tell the population ; I think it is nearly as populous as Canton.

‘ Is there a harbour at Kesiak ?—A fine harbour.

‘ Was that a commercial town ?—It is a commercial town for junks only.

‘ Do you know what province it is in ?—The province of Canton.

‘ What distance from Canton is it ?—About 150 miles.

‘ Is there much foreign trade carried on in Kesiak ?—I am not aware that there is any. There is a very large coasting trade.

‘ Are you of opinion that the Chinese, in the places you visited, are anxious for the extension of commerce ?—I should conceive that they were, because *I have always found the Chinese inclined to buy any thing that was at all useful, of any description.*

‘ You conceive them to be any thing but an anti-commercial people ? —I should consider them to be quite otherwise.

‘ Do you conceive that they have any antipathy to strangers ?—I should conceive quite otherwise. *In the northern provinces especially, I was most politely received, and my people were equally the same.*

‘ What did your crew consist of ?—Of all sorts —English, natives of India, and natives of the Philippines.

‘ What number of Englishmen had you ?—I had sometimes from ten to twenty.

‘ What was the number of your crew ?—Forty.

‘ Did those Englishmen land ?—Yes, frequently.

‘ They had intercourse with the natives ?—Yes.

‘ Did you ever hear of any disturbance between them and the natives ?—*Never the least disturbance.*



‘ Were the crews generally well received by the natives?—Equally  
‘ as well as I was myself; they were allowed to walk about the  
‘ fields, and to go into the houses.

‘ Did you find the coast of China generally in a state of good  
‘ military defence?—I should say quite the contrary; because the  
‘ greatest number of troops that ever I have seen was in the train of  
‘ mandarins, to the amount of about 500.

‘ How were those armed?—They were dressed in red calico jackets,  
‘ with a large bamboo hat on, and with large wooden shoes, some  
‘ with bows and arrows, and some with matchlocks, and some with  
‘ spears.

‘ Supposing you had a sergeant’s party of English troops, what  
‘ would have been the effect upon the Chinese soldiers?—They would  
‘ have run away.

‘ Did you ever go into their forts?—Frequently.

‘ In what state were they?—In a state of dilapidation.

‘ What was the state of the guns?—The guns were all dangerous  
‘ to fire, being honey-combed; and being laid between two pieces of  
‘ wood, they could only be fired in a straight direction.

‘ Were the fortifications in a pretty good state?—No, quite ruinous;  
‘ there were about forty or fifty men in each of the fortifications.

‘ Would there be a demand for English blankets?—I should conceive  
‘ there would be a demand for English blankets.

‘ Are they now generally purchased by those that can afford them?  
‘ —By every one that can afford them.

‘ What description of native woollen manufacture is there?—The  
‘ only native woollen manufacture I saw is in imitation of cashmere  
‘ shawls. I think it is manufactured of goat’s hair; it is a fine sort  
‘ of white flannel.

‘ Is it of a high price?—It is not within the reach of the poor people  
‘ at all.

‘ What is the common dress of the poor people?—Blue cottons.

‘ Do you know where those cottons are manufactured?—In  
‘ China.

‘ Do you know in what part?—They are manufactured in all the  
‘ provinces. I have seen them manufactured in every village I have  
‘ gone into.

‘ Did you ever observe what sort of machinery they had for the  
‘ manufacture of those cottons?—A very rude loom, quite in a very  
‘ old fashion.

‘ Did you ever compare the price of cotton so manufactured in  
‘ China with the price of English cotton?—No, I never did; *it is much*  
‘ *dearer than English cotton*, because English cottons sell in China at  
‘ very fair prices, and they dye English long cloths afterwards as a  
‘ substitute for their cottons, and they are much cheaper.

‘ Do the natives prefer their own, being dearer?—Their own cottons  
‘ wear better; but a cheap article is always a great object with the  
‘ Chinese, even if it should not wear so well.

‘ Supposing there was a great trade carried on between England and  
‘ China, do you not imagine that the cheap manufacture of England  
‘ would, to a considerable extent, supplant the dear manufacture of  
‘ China?—*I have no doubt it would entirely.*

‘ You were understood to say, that you did not find it necessary to  
‘ establish any stricter regulations with respect to intercourse with the

‘ shore than at other places?—Not any ; *I allowed my crew to go on shore at any time they pleased.*

‘ Have you ever known any inconvenience from it?—Not any.

‘ Have you known any to happen with any other ship?—Not any.

‘ Was it the general practice of the ships?—It was ; there was never the least disturbance.’

Our readers, we feel assured, will agree with us in thinking, that the above extracts are completely conclusive as to this second branch of our inquiry. They prove, beyond all controversy, that whatever peculiarities may attach to the Chinese, an antipathy to commerce or to strangers is not one of them. On the contrary, it is fully established that they are a highly commercial people, that business may be conducted with them with the greatest facility and security ; so much so, indeed, that valuable cargoes may be disposed of, and large ships unloaded and loaded in the port of Canton, in less time, and with far less expense, than in either London or Liverpool. It is also shown, that the apprehensions, if such were really felt by any one, of disturbances arising in consequence of a want of discipline in the crews of private ships, are altogether futile and visionary ; and that, in point of fact, the private traders have never experienced the slightest inconvenience from any tumults between their sailors and the natives. It has been farther shown, that an advantageous trade may be safely carried on with the ports of China to the north of Canton ; that we may buy tea at first hand in the provinces where it is raised ; and that extensive markets for our cottons, woollens, &c., may be opened all along the lengthened shores of the ‘ celestial empire.’ All, therefore, that the Company and its advocates have said about their monopoly being necessary, because of the peculiar nature of the Chinese character and institutions, falls to the ground. It has been proved to be destitute even of the shadow of a foundation. As well might it be said that the trade to New York should be subjected to a monopoly, because the Americans have neither an established church nor a king. Every nation has its distinguishing features ; but the notion, so generally entertained, that the Chinese were peculiarly characterised by a contempt of commerce and of strangers, is as utterly unfounded as any delusion can possibly be.

III. We come now to the third head of this inquiry, or to the investigation whether the Company have carried on the trade to the same extent that it would have been carried had it been open to private individuals to engage in.

It can hardly be necessary that we should enter into any very lengthened discussions under this head. Every one must be satisfied, on general grounds, that the Company have not carried the trade to any thing like the extent to which it would have been carried but for the monopoly. ‘ The spirit of monopolists,’ to borrow the just and expressive language of Gibbon, ‘ is narrow, lazy, and oppressive. Their work is more costly and less productive than that of independent artists ; and the new improvements so eagerly grasped by the competition of freedom, are admitted with slow and sullen reluctance in those proud corporations, above the fear of a rival, and below the confession of an error.’ Even though the directors of a great association like the East India Company, were disposed to extend its commerce, and to manage it according to the most approved principles, they are



wholly without the means of giving effect to their wishes. They must operate through servants; and is it to be imagined that the *employés* of such a body, — that the ‘gentlemen,’ for example, of the factory at Canton, with their 8,000*l.* and 10,000*l.* a year, and free table, will ever display that watchful attention to the Company’s interests, or conduct the business intrusted to their care with the same unsparing economy, that will be practised by private merchants trading on their own account, superintending their own concerns, and responsible in their own private fortunes for every error they may commit? The affairs of the Company, whatever have been their efforts to the contrary, have always been managed, and must necessarily continue to be managed, according to a system of routine. Their captains, and mercantile agents, are, we doubt not, ‘all honourable men;’ but it were an insult to common sense to suppose that they may be for a moment compared with individuals trading on their own account, in the great requisites of zeal, conduct, and skill.

These general considerations will, in the estimation of every reasonable person, be deemed sufficient to dispose of this part of the question. But the facts to which we may appeal are not less conclusive.

In one respect, the East India Company have displayed extraordinary address in managing their affairs. They have contrived to make it be generally believed that they carried on a very extensive trade, and that their operations could not be disturbed without considerable hazard to the manufacturing interest. How they succeeded in procuring currency for such a notion, we know not; but, assuredly, none was ever more unfounded. The commerce carried on by the East India Company, exclusive of the importation of tea, is utterly insignificant. The entire value of *all* the commodities exported by them from the United Kingdom, besides military stores, does not exceed the miserable pittance of 750,000*l.* And the fact is, that all the commodities they export to all the vast countries to the east of Malacca hardly exceed those that are annually sent by a few petty merchants to the islands of Jersey and Guernsey. That such is the case will be seen from the subjoined *official* document:—

*Value of Exports by the East India Company from Great Britain to China.*—(See Parl. Paper, No. 412, Sess. 1828.)

Species of Goods.	Years ending 5th January				
	1824.	1825.	1826.	1827.	1828.
	£	£	£	£	£
Cotton Manufactures	6,092	- -	167	11,995	20,752
Iron in bars (British)	13,482	15,502	17,214	36,067	24,350
Lead and Shot -	8,793	22,433	39,221	41,918	32,154
Skins and Furs -	- -	33,516	31,151	—	—
Woollens - -	674,585	532,221	652,047	756,968	413,422
All other articles -	5,095	8,467	5,058	5,082	3,137
Total value of Exports by the East India Company to China }	£708,047	612,139	744,856	852,030	493,815

Though so trifling a trade were entirely annihilated, the loss would not be sensible at the end of six months. And even this stunted and petty trade is admitted not to have been profitable. Whatever the Company have made by their trade, (if they have really made any thing,) has been derived from their monopoly of the supply of tea. Mr. St. George Tucker, one of the directors, has admitted this fact in the most explicit manner:—‘*The exports to India and China never,*’ says he, ‘*produced a profit generally, or for a continuance.* The trade ‘was resorted to, and persevered in, upon a variety of mixed considerations; partly to supply a remittance to the East, where, until lately, we required funds for the purchase of return cargoes; partly to supply the Chinese and our Indian subjects with articles which they could not obtain through other channels, while the exclusive trade was vested in the Company; partly to occupy tonnage which would otherwise have been unproductive; but chiefly to benefit the manufacturing and other interests of this country, by introducing and circulating our fabrics, and the produce of our lands, throughout the wide regions of Asia, which were accessible to our enterprize.’—(Tucker’s *Financial State of the East India Company*, p. 191.)

Giving the Company credit for their efforts to circulate our fabrics through what are truly called the ‘wide regions of Asia,’ we must say that they strikingly exemplify the fable, *Montes parturiunt*, &c. China, not to mention the other countries to the east of Malacca, contains 150,000,000 of inhabitants; it abounds in products fit for the European markets, and the people, as has been already seen, are most anxious to obtain ours in exchange. It is upwards of a century and a half since the Company began to trade with this ‘wide region;’ during that lengthened period they have been allowed to conduct that trade in their own way, having been protected by their monopoly against the competition of their countrymen; and at the end of this long probation, they have succeeded in annually disposing (at a loss, be it observed) of £20,000 worth of cottons, and £413,000 worth of woollens! Can any more conclusive proof be desired of the deadening influence of monopoly?—of its tendency to narrow and choke up what would otherwise be the broadest and deepest channels of commercial intercourse? We have not the slightest doubt—and our opinion coincides with that of the most experienced merchants—that had the trade with China been free during the last fifty years, our exports to it only would have amounted, at this moment, to £8,000,000, or £10,000,000 a year.

While the Company’s export of woollens, trifling as it has always been, has been recently falling off, that of the Americans has been rapidly increasing. Formerly the Americans used to export little except bullion; but at present their ships come to London and Liverpool, and take on board manufactured goods, which they carry to China. Now, the fact that such a trade is carried on, shows, that though, in the hands of monopolists, the export of manufactured goods to China is productive only of loss, it is advantageous when conducted by individuals. It is true, that some of those who have at different times engaged in the trade from the United States to China have failed; but such contingencies attach to all businesses, and are as numerous in the trade between this country and the United States as in any other, though it has not yet been affirmed that it is disad-



vantageous. The failures in question took place chiefly amongst those who engaged in the trade without sufficient capital and experience, and attempted suddenly to force it beyond due bounds. Those who prosecuted it on sounder principles are very wealthy. The largest fortunes in the United States have been made in the China trade. Mr. Cushing, an American merchant, lately of Canton, has recently retired from business with, it is said, a fortune of £500,000, and there are many others that have been hardly less successful.

It is material, too, to bear in mind, that while the free China trade has been thus productive of wealth to the American merchants engaged in it, it has been in the highest degree beneficial to the Union. The American public have been abundantly supplied with tea — that is, with an important necessary of life — for little more than a third of what it has cost the people of England, exclusive of the duty. Had the China trade of England been conducted in a similar way, it would, besides affording an advantageous market for eight or ten millions' worth of produce, have enriched vast numbers of our merchants, ship-owners, &c., and saved two millions a-year to the public in the cost of tea.

But were the monopoly set aside, besides the vast empire of China, the resources of the extensive and populous, though imperfectly explored, countries of Cochin-China, Tonquin, and Siam, the empire of Japan, and the archipelago of the Philippines, would be made available for mercantile purposes. The commerce between the Eastern and the Western worlds is yet only in its infancy. From the era of Vasco de Gama to the present day, the intercourse between Europe and India and China has been subjected to the most oppressive fetters. A department of commerce so extensive, had it been properly cultivated, as to have afforded full scope for the mercantile resources of every nation, but requiring great perseverance, skill, and enterprize in its establishment, has been made over to a handful of monopolists, who have wasted all the energies of which they were capable in warlike undertakings. So much is this the case, that of the thousands of admirable harbours to the eastward of Malacca, Canton and Manilla are almost the only ones that have ever been visited by English merchant-ships. We have, in fact, voluntarily shut ourselves out of the most extensive markets, or, which is the same thing, we have delivered them over to those who do not resort to them as merchants, but as monopolists, to get cargoes of tea, which they afterwards sell to us upon their own terms, and at an exorbitant advance. This conduct has not been more injurious to ourselves, than to the nations it has so long deprived of the advantages derivable from a free intercourse with Europe. It is impossible to conjecture the improvement that might have been accomplished, not in the arts only, but in the sciences, moral feelings, and habits of the Indo-Chinese nations, had there been nothing to hinder our communication with them during the last sixty or seventy years. Commerce is the grand engine by which the blessings of science and civilization are universally diffused. While it enriches, it also instructs and stimulates the industry and invention of those who carry it on. That the immeasurable superiority of the people of Europe in knowledge of all sorts should hitherto have had so little influence upon their Asiatic brethren, is entirely owing to the jealous systems of commercial policy that have obtained amongst us. Had European

adventurers been allowed to resort freely to the different countries of the East, and been permitted to trade freely with their mother countries, the foundations of improvement would have long since been laid in nations that are still comparatively barbarous. We trust, however, that a new era is at hand, and that European arts and sciences will no longer be excluded from some of the finest and most extensive countries in the world, that the sickly existence of a decrepit and worn-out monopoly may be prolonged for a few years. The Parliament of Great Britain have it now in their power to open new and boundless markets for the products of our artisans, and they are called upon to assist in forwarding the civilization of the Eastern world. The positive evils inflicted by the monopoly are neither few nor small; but they are really inconsiderable, compared with the good which it prevents. It checks the spirit of improvement, paralyzes industry, and upholds ignorance and barbarism in vast countries. Its abolition will redound to the advantage of every man in England, the ‘gentlemen’ of the factory only excepted; but though it were otherwise, justice to many millions of our fellow men, less happily situated than ourselves, requires that we should subvert the barrier which has proved so formidable an obstacle to their advancement.

It may be thought, perhaps, that, in so far at least as respects the Japanese, their jealousy of strangers will always form an insuperable obstacle to any considerable traffic with them. There is, however, good reason to think that this jealousy has been very much exaggerated. The exclusion of Europeans from Japan, into which they were at one time freely admitted, was a consequence of the proselytising efforts of the missionaries, and of the cabals that the Portuguese excited against the government. Were their coasts once visited by really free traders, anxious only to carry on a friendly and mutually beneficial intercourse, without having any ulterior objects in view, we have little doubt that the supposed aversion of the Japanese to strangers would be found to be quite imaginary. There are some circumstances mentioned by Mr. Deans, to whose valuable evidence we have already referred, which go far to confirm what has now been stated. After informing the Committee that the Dutch continue to send two vessels annually, of any size they please, to Japan, Mr. Deans was asked, ‘Does any other European nation trade at all with them?—I am not aware that any European nation trades with them. I saw a captain of a ship from Bengal, who got upon that coast, and the boats came off to him in great numbers, and *purchased every kind of article they had of British manufacture*; they had very little unfortunately, but they sold all that they had in barter for provisions, which they were out of. The officers of the government also came on board, and ordered him off, but at the same time asked him if he had any cloth such as his coat was made of, or any articles of that kind, for they were anxious to purchase them. He said he had not, and when he came back they told him *to be sure to bring articles of that kind*, but on no account was he to come back.’ This is quite of a piece with the conduct of the Chinese mandarins, who denounce punishments against the smuggling of opium, at the same time that they give every possible facility to the smuggler. Mr. Deans was then asked, ‘Do you know the number of the Chinese junks that trade to Japan?—I cannot be sure of the extent, but I believe it is considerable.—Is it the general impression



‘ in the Eastern archipelago, that provided a change were to take  
 ‘ place in the mode of transacting business with Japan, a very consider-  
 ‘ able trade might be carried on with that empire?—It would be an  
 ‘ illicit trade ; but our enterprizing countrymen generally manage to  
 ‘ conduct a trade with every part of the world they can get to.—  
 ‘ Should you not expect that if free traders were admitted to China,  
 ‘ they would find the means of carrying on trade with the empire of  
 ‘ Japan?—I have no doubt they would ; but *if they did not, the Chinese*  
 ‘ *would find the means of conveying to Japan such articles as they found*  
 ‘ *would suit them, whether of Chinese or European manufacture.*’ (Report,  
 p. 242.)

In another place, Mr. Deans gives the following testimony as to the injury arising to the English merchants and ship-owners from the exclusion of British ships from the Chinese seas:—‘ During your residence at Batavia, have you had any evidence of disadvantages to which British ships have been subject in consequence of their exclusion from the ports of China?—I have had many. I have often myself, in shipping goods to China, been obliged either to get freight on foreign vessels, or to hire Dutch colonial vessels to proceed to the Straits of Sunda, to meet the Company’s ships, for the purpose of either disposing of the produce I had for the China market, or of sending it on freight to China.—Has the state of the law put you under the necessity of shipping consignments of produce in foreign vessels?—I have shipped in foreign vessels for China, *because I could not avail myself of the unemployed British tonnage which were lying in the harbour, and which would gladly have gone to China.*’ (Report, p. 236.)

There is no obstacle, except what arises from the Company’s privilege, to the carrying on of an extensive intercourse with the Philippine islands. The natives are very well disposed towards strangers, particularly British ; and the Spaniards and Chinese, settled at Manilla and other places, gladly avail themselves of any means by which they may obtain an advantageous market for the products they have to dispose of.

The extensive countries surrounding the gulf of Siam, and the whole coasts of Cochin-China and Tonquin, are furnished with excellent harbours, some of which are situated at the mouths of navigable rivers, that penetrate far into the interior, affording every facility for the most extensive commerce. It should also be recollected that though these countries have ceased for a very long period to be frequented by Europeans, a pretty extensive intercourse was, at one time, carried on with them. Both English and French were established in considerable numbers, towards the close of the seventeenth century, in Siam ; and it was owing to their own misconduct,—to their grasping at peculiar privileges and immunities, and not to any hostility to strangers on the part of the natives,—that they were expelled. The truth is, that, until the Americans appeared in the Eastern seas, the foreign adventurers by whom they were visited had but little of the genuine mercantile character. The agents of the Dutch and English East India Companies were never satisfied with the ordinary mercantile profits that might have been made by industrious individuals, but were always engaged in schemes to obtain some preference or exclusive advantage, or to subjugate the country. The spirit of monopoly tainted all their

proceedings: and the great military and naval power of the Companies rendered them domineering as well as rapacious.\* Instead of attempting to rise to wealth by the exercise of laborious industry, they commonly resorted to a more compendious process, and endeavoured to effect their object by stratagem or force. The history of European commerce in the East is really nothing but the history of a *continued series of usurpations*; nor can any one acquainted with the circumstances feel surprised that such native princes as had the means excluded those from their territories whose object was not to maintain a fair and friendly commerce, but to extort oppressive privileges, or to make conquests.

But monopoly has had its day. It is not in the nature of things, that a system, productive of such baneful results, can be continued. And, when the innumerable ports and markets of Asia are opened to the free competition of British merchants, every thing will take a new face. Countries will then be explored that have hardly yet been visited; new channels will be opened for the profitable employment of capital, and the successful prosecution of industry; and commerce, relieved from the poisonous influence of monopoly, will become what it has never hitherto been in India, the most copious source of wealth, as well as the most powerful instrument of civilization.

These statements are not merely consistent with probability; they are, as has already been seen, confirmed by the direct testimony of the highest mercantile authorities. It is to no purpose, therefore, that the advocates of monopoly tell us, that the Company has pushed the trade to its farthest limits, and that, in all the immense range of thickly-peopled provinces stretching along the shores of the Chinese empire and its subsidiary states, it is impossible to find a vent for more than the 500,000*l.* worth of British goods sent to Canton by the Company! Such ludicrously absurd assertions are unworthy of one moment's attention. They are of a piece with those that were made in 1813, previous to the opening of the trade to Hindostan. At a general court held at the East India House on the 26th January 1813, it was resolved, that it was not possible to extend the export of British goods to India; that the Company actually suffered a loss in carrying on this department of their trade; that the markets were already glutted with goods imported from India; and that the opening of the trade would be no other than a 'ruinous transfer' of it into new channels, attended with 'the beggary of many thousands of industrious individuals.' Such were the statements solemnly put forth by the East India Company in 1813, and, with the exception of that which refers to the loss sustained by the Company, every one of them has been proved to be entirely unfounded. In 1814, the last year of the exclusive trade to India, and the period when the Company proclaimed that the exports to it had attained their maximum, they amounted to 870,177*l.*; but so far from this being the fact, in 1819, four years after the trade had been opened, the exports amounted to 3,052,741*l.*, and in 1828 they amounted to 4,701,784*l.*! Can any one doubt that similar results would follow from opening the trade to China? The very idea of referring

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\* It has been the same at all times. When Dampier visited the factory newly established by the Company at Bencoolen, he found two Rajahs in the stocks because they had not brought down to the fort the quantity of pepper the governor had sent for! — *Dampier's Voyages*, vol. ii. p. 183.



to the experience of the East India Company, upon such a subject, involves an absurdity ; its experience might be worth something were it proposed to establish a new company with similar privileges ; but it is utterly worthless as a means of estimating the efforts, or the success, of free traders, with whom monopoly has nothing in common.

It appears, therefore, whether we consider the Company's monopoly as respects the price at which they have supplied the British markets with tea, the difficulties supposed to attach to the carrying on of a commercial intercourse with China and the contiguous nations, or the extent to which the trade with them has been, and may be, carried, that it is alike indefensible. We are not, indeed, aware of a single argument entitled to a moment's consideration that can be urged in its behalf. It has every fault that a monopoly can have. It entails a heavy direct burden on the people of Britain ; and it is incalculably injurious to them and to the Eastern world, by preventing the growth of the vast commerce that would otherwise be carried on between them. The inquiries into which the Parliamentary Committees have entered were not necessary to satisfy any one, who had attended to the subject, of the advantages that would result from the abolition of the monopoly. But we are, notwithstanding, glad that they have been gone into. Every assertion put forward by the Company has been disproved. All their fables about the difficulty of carrying on an intercourse with so 'peculiar' a race as the Chinese, have vanished like 'the baseless fabric of a vision.' And it appears that the only real difficulty in the way of the most extensive intercourse with the Chinese and the neighbouring nations, is their own oppressive privileges. To suppose, under such circumstances, that the charter should be renewed, would be to suppose that the Company had power to prevail on the legislature to act in defiance of common sense, of all principle, and of its most sacred duties, not to the people of Britain only, but to the Eastern world.

But it is not enough that the trade to China be thrown open, and every vestige of the existing monopoly abolished ; it is farther necessary that the Company should be *absolutely interdicted from having any thing whatever to do with commercial affairs.*

Perhaps it might be enough, in vindication of such a regulation, to observe, that the duties of sovereigns and of merchants are quite incompatible. If the Company choose to relinquish their territorial rights and privileges, and cease to have any thing to do with the government of India, we should be the first to hail their coming into the field of free commercial competition. But we object to their being allowed to combine in their own persons the separate and irreconcilable functions of tea-dealers and rulers of a mighty empire. Let them make their election ; let them choose whether they will be grocers or emperors ; but do not let them attempt both. The counting-house is not a school in which to breed statesmen ; nor is the treasury or the camp a school in which to breed merchants. We do not mean to underrate the talents and acquirements of the directors ; but were they ten times greater than they really are, it is quite impossible that they should be able to fathom all sorts of mysteries, — to occupy themselves, at one period, in legislating for a vast empire, in directing the march of armies, and arbitrating between contending states ; and that, having done this, they should forthwith doff the character of the monarch, to assume that of his oilman, and sit in judgment upon the rate of ex-



change, and the quality and price of saltpetre. To be a good grocer or cheesemonger, a man must be nothing else. If the Company prefer these useful functions to those of a loftier character, we shall not blame them for the choice. But we protest against their being allowed to carry a sword in the one hand, and a ledger in the other, — to act at once as sovereigns and tea dealers.

It is not, however, solely from the obvious impossibility of their being able to discharge such opposite duties, without neglecting the one or the other, or both, that we are impressed with a conviction of the absolute necessity of forbidding the East India Company from having any concern with commercial affairs. Till this be done, the commerce between Europe and the East, and between different places in the East, will always be upon an insecure foundation. The mercantile agents of the East India Company are not influenced by the same motives that influence private merchants. Their object is not so much to buy an article at the lowest price, as to get it *coute qui coute*. They know that the revenues of India are pledged to make good their contracts, and the higher the price paid by them, the higher will be their commission. It is idle to suppose that there can be any thing like fair competition in markets occasionally frequented by such persons. It is their interference, and that only, that renders the trade to India so very hazardous. Whenever it is known that they are in the market as purchasers, the commodity in demand, whether it be indigo, cotton, silk, pepper, or saltpetre, immediately rises ten, twenty, or thirty per cent., so that all the combinations and calculations of the private traders are in a moment upset. In illustration of this, we may mention, that a few years ago, the Company having sent out large orders for the purchase of Bengal indigo, the local government, aware how prices would rise when it was known the Company were in the market, employed Mr. Palmer (late Palmer and Co.) secretly to purchase for them; but Mr. Palmer's purchases very soon exceeding what were known to be his own private wants, it was first suspected, and afterwards ascertained, that he was buying for the Company, when prices immediately rose from 190 to 230 or 240 rupees per maund. The correspondents of the private merchants, who had received orders to purchase indigo, were, of course, compelled to pay the same enhanced price. No sooner, however, had the indigo got to England, than the price fell back to its natural level, most of it being sold at a very heavy loss.

The only argument put forward by the Company in defence of their Indian trade is, that otherwise they would not be able to realize the surplus revenue of India in England. But if we may believe their own accounts, such surplus revenue has rarely existed, and could not, therefore, be very difficult to realize. Although, however, it had been ten times greater than it really has been, the Company might have got it paid over to them in Leadenhall Street without the slightest inconvenience, supposing they had had nothing to do with trade. What is to prevent them from buying bills upon London? This is what a private individual in Calcutta would do who wished to make a remittance to England; and if the Company do the same, they may remit a million with less trouble than they now remit 10,000*l*. It is well known to every mercantile man in London, that they are at this moment selling indigo that cost them a rupee, or 2*s*., in India, for 1*s*. 2*d*., — incurring a loss upon the remittance of no less than FORTY *per cent.*! Now, mark how easily this heavy loss might have been avoided. In September



1829, the Bengal government advertised that they would advance on cargoes to England *two-thirds* of their ascertained value, for good bills, in favour of the Board of Trade, at six months' sight, and 1s. 11d. the rupee; the advance being guaranteed by the cargo being placed in the hands of the Company till the bills were paid. And it is a fact, that most of these bills were paid on presentation, six months before they were due, and some months before the arrival in England of the goods on which the advance was made. Here, then, is a large remittance made to the Company in the most expeditious way possible, and without their incurring the smallest loss, or even risk. Whereas in their simultaneous attempt to remit revenue by importing Indian produce, they have incurred a loss of some hundreds of thousands of pounds; at the same time that, by glutting the market with indigo, they have done serious injury to the private trader. Need another word be said to show the extreme absurdity of such a proceeding, and the advantage to all parties of preventing its repetition?

It has already been seen that the Company's exports of all sorts of British produce to China do not exceed 500,000*l.* a-year. But the prime cost of the teas purchased by the Company amounts to a much larger sum; the excess being made up principally by cargoes of cotton, &c., sent on their account from India to China. The mode in which the Company possess themselves of the cotton in question deserves to be pointed out, though not for the purpose of imitation. On the western shores of India, there are what are called cotton plantations; and, in virtue of their sovereign power, the Company claim, and actually take, half the produce of these plantations as a land-tax, compelling the cultivators to sell them the other half at a price fixed by the judge, collector, and commercial resident of the district; — that is, *by the servants of the Company*. But all the cotton obtained by this unparalleled system of oppression not being sufficient to supply the wants of the Company, their agents are every now and then coming into the market as buyers. Prices are never allowed to settle at their natural level; so that the proceedings of the Company are not only ruinous to the grower, but to every one connected with the trade.

Besides their monopoly of the trade from Britain to China, the Company have also a monopoly of the trade from India to China. No private merchant can send a ship from Calcutta or Bombay to Canton without licence from the Company. The demand in China for the cotton and opium of India, and for the products of the islands of the Indian archipelago, is very great, and a most extensive trade would be carried on between these countries were it not for the difficulties under which the private traders are placed of getting returns. The Company will not allow them to fetch away a single pound of tea, except the little that is required for Hindostan; so that they have little other means of getting payment except by smuggling silver out of Canton at some risk and certain loss, or by paying the proceeds of the cargo into the Company's treasury at Canton, and getting bills, mostly at an unfavourable rate of exchange, on the Company's governments in India. It is seldom that bills can be obtained on England, and then only for a limited amount. Such a mode of carrying on trade is, in some respects, advantageous to the Company, but it is in the last degree injurious both to India and England. The ships that get licences to carry cargoes to China are, for the most part, obliged to return to India in ballast. The whole expense of the voyage is thus



made to fall on the outward cargo; and the trade is in this way confined to less certainly than a twentieth part of what it would be were it thrown open, and all individuals allowed either to carry to or bring from Canton such commodities as they pleased.

We have already noticed the circumstances under which cotton is obtained in India for the China market. Opium is the other great article of export; and our readers will not be surprised when we tell them that its production and sale are engrossed by the Company. In fact, this monopoly within a monopoly not long since netted the Company nearly 900,000*l.* a year; nor will this appear surprising to those who are aware that, only about nine years ago, that very opium for which the Company allowed the growers 3*s.* or 3*s.* 4*d.* per lb., was sold by them for 60*s.*! In consequence, however, of the recent introduction of large quantities of Malwa and Turkey opium into the market, its price has been greatly reduced, though it is still three or four times more than it would be were it allowed to be freely produced.

It is, therefore, indispensable, if we would not trample upon all the best rights of the people of Britain and the East, and voluntarily oppose both the increase of wealth and the progress of civilization, that the Company's monopoly should be utterly destroyed. But this abolition will not be enough. It is further indispensable that the Company should be prohibited, so long, at least, as they have any thing to do with the government of India, from engaging directly or indirectly in any sort of commercial adventure. Unless this be done, the commerce with India and the East will never rest on a secure foundation; nor will the government of India be properly conducted. Those who are engaged in details about the prices of cotton and indigo cannot attend to the weightier matters with which they are entrusted. Let them, if they prefer it, give up the latter; but do not let them attempt to be Hamlet and Harlequin — sovereigns and hucksters, at the same moment.

If the Company take an enlightened view of their own interests, they will be the last to object to the measures now proposed. Notwithstanding their monopoly costs the people of Britain 1,800,000*l.* a year, it is exceedingly doubtful whether the Company gain any thing by it, after paying the dividend of 630,000*l.* The mass of accounts laid by them before Parliament are in such a state of confusion, discordant items are so jumbled together, and estimates are so mixed up with real payments, that it is impossible for the most expert accountants to tell what is the real state of their affairs. The Company's own servants seem to know quite as little of the matter as others. They have not produced a single document drawn out on fair mercantile principles, or such as any merchant would think of exhibiting. Mr. Rickards, who was examined at great length by both Lords and Commons' committees, and who, from his long experience in Indian affairs, is well qualified to form a correct opinion upon such a subject, contends that, as far as any thing can be learned from the defective accounts produced by the Company, *their trade has uniformly been attended with a heavy loss*; and that, had it not been for the aid derived from the revenues of India, they would long since have been completely bankrupt. We have very little doubt that Mr. Rickards's will turn out to be the correct view of the matter; at all events, however, it is abundantly clear, taking the Company's statements as they stand, that their commercial surplus is absolutely nugatory. They



state that it amounted during the last *fifteen* years, to 15,414,414*l.*, including *interest and insurance*, being at the rate of about a million a year. But they also state, that their *commercial assets*, or capital embarked in trade, amounts to 22,787,034*l.*, and that their commercial debts, both foreign and at home, amount to only 2,484,078*l.*: taking then the balance of 20 millions, and supposing it to be invested at 4 per cent., it would yield a nett revenue of 800,000*l.*; but the Company owe a large amount of territorial debt, for which they pay 5 per cent., and supposing the commercial assets were applied to pay it off, they would produce to the Company 1,000,000*l.* a year. It is, therefore, as clear as the sun at noonday, taking the Company's accounts as they have presented them, that *the trade which they carry on does not yield them a single shilling beyond the dividend*. They tell us, that they derive from it a surplus million a year; but, in the same breath, they tell us that they have twenty millions employed in it. It is therefore obvious, that if they give up the trade, and employ their commercial assets either in extinguishing their own debt, or in loans to others, they will yield them as large a surplus as they affirm they derive from the trade. In so far, too, as the interests of the proprietors of India Stock are concerned, this measure would be for their advantage. The *maximum* dividend they are entitled to receive is fixed by law at  $10\frac{1}{2}$  per cent., or 630,000*l.* a year; but it may fall to any extent. They, therefore, have no interest in carrying on trade, but the reverse. It may lessen their dividends, and it cannot, under any circumstances, augment them; whereas, according to the plan now suggested, they would be *secure of receiving the greatest dividend without any risk of its reduction*.

We should be making a heavier demand than we have ever done upon the patience of our readers, were we to enter upon any examination of the statements of those who contend, that, without the *surplus* derived from the China trade, the government of India could not be carried on. As well might it be said, that the government of Great Britain could not be carried on without the revenue of Shetland. Supposing the Company's accounts to be quite correct, and supposing that they are debarred from trading, and that their commercial assets are invested as above stated, the entire defalcation in the funds at their disposal would not exceed 600,000*l.* a year. But the revenue of India amounts to from *twenty-four* to *twenty-five* millions; and to imagine that it could not be made to defray the expenditure, were it diminished about *one-fiftieth part*, is something too ridiculous to deserve notice. If the Company will but enforce a little of that economy which is now the order of the day, they will procure for themselves a ten times larger surplus than they even pretend to derive from their trade.

We submit, that this statement is decisive of this part of the question, admitting the Company's accounts to be accurate. But in truth and reality they are most inaccurate. The trifling surplus which they exhibit has no real existence. It is not more substantial than one of Mr. Sadler's harangues. The Company's monopoly imposes a direct tax of nearly *two millions* a year on the people of Britain; it cripples and depresses our commerce by shutting us out of the best markets, at the same time that it inflicts incalculable injury on the Eastern world. And in return for all this it produces to the *Company*—absolutely nothing! The invaluable privileges enjoyed by them—privileges which, had they been enjoyed by private individuals, would have produced a profit of 100 per cent.—have been swallowed up in the abuses insepa-



rable from monopoly. Nothing so monstrous was ever heard of as the proposal to continue such a system. If the Company are wise, they will voluntarily withdraw at once and for ever from their trading concerns, relinquishing the monopolies they have so long enjoyed, so much to the injury of others, and so little to their own advantage.\*

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### CAPITAL PUNISHMENT FOR FORGERY.†

It is understood that the manuscripts of Sir Samuel Romilly contain matter of a very high interest to the science of jurisprudence. They are said to comprise his speculations upon all the most important questions which have of late agitated men's minds connected with this subject. He had directed his attention to the amendment of the law, especially the criminal law, from a very early period; and had perceived the expediency of some reforms, and the necessity of others, long before it ever entered into the imaginations of most other men that any juridical thing could be different from what it is, or that any thing could be better than the provisions of the English law in all its branches. Of the various improvements which he proposed, and which would all have been thought wild imaginations of a visionary speculator had they been made public at the time, it is remarkable that a large proportion are now either the law of the land, or almost certain of speedily becoming so. From hence we might draw a very favourable inference touching the rest which are still resisted, and predict their soon being accepted, if we were made acquainted with their nature and purport.

Can any one doubt that it would be of the greatest benefit to the community to have access to these important manuscripts, were it for no other reason than to give the proposed reforms of the law the advantage of such high authority in their favour? They would have not merely the sanction of his name, whom all wise men have revered, and all good men loved; but also, in some sort, the authority of the legislature itself, which has adopted so many of his propositions, and still hesitates to receive the rest. But there is every reason to expect matter valuable for its intrinsic importance from such a quarter; and even where late writers may have gone over the same ground, there is a high degree of curiosity in observing how far Sir Samuel Romilly had gone in the path of law reform, in an early age, as it were, and before men had been taught by Mr. Bentham to speculate with unrestrained freedom. We, therefore, venture to hope that these

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\* As the question so ably discussed in this Essay is one of vast importance, and will soon occupy the attention of the legislature with a view to its final settlement, I lament that I cannot transfer to these pages more than one of the many excellent articles which the Edinburgh Reviewers have written on the subject. See Vol. iv. p. 303. Vol. ix. p. 391. Vol. x. p. 334. Vol. xv. p. 255. Vol. xvi. p. 128. 229. Vol. xx. p. 471. Vol. xxix. p. 433. Vol. xxxix. p. 458. Vol. xlv. p. 340. Vol. xlvii. p. 134. Vol. xlviii. p. 335.

† Anti-Draco; or, Reasons for abolishing the Punishment of Death in case of Forgery. By a Barrister. — Vol. lii. page 398. January, 1831.



valuable remains will no longer be withheld from the world. Their truly illustrious author, when he bequeathed them to the care of his chosen friends\*, charged them by no means to think of his literary reputation, but only to consider whether or not the publication of these papers was likely to benefit mankind;—a noble sentiment, well worthy of the exalted mind from which it proceeded—a sentiment which those friends would betray their trust were they ever to lose sight of.

In approaching the proper subject of this article, we were naturally led to the remarks which we have now premised; for no subject as deeply or so constantly engrossed Sir Samuel Romilly's regards, as the severity of our criminal code. His speeches, and his able and eloquent tract, upon the subject, are fresh in every one's recollection. He was the first person who broached the question fairly and systematically in Parliament; and he shared the fate of all propounders of change in any institution: he was derided by some, pitied by others, by not a few execrated, by almost all regarded as the advocate of a desperate cause. It can hardly be thought extravagant in us to state the change which less than the quarter of a century has produced in public opinion, as almost unparalleled, when we remind the reader of the origin of a phrase, much in men's mouths who would resist change—'*The wisdom of our ancestors.*' It was first invented by Mr. Canning to oppose by a kind of outcry, or appeal to vulgar prejudice, the law reforms so gradually, so temperately proposed by Sir Samuel Romilly; and yet Mr. Canning lived to be regarded as a leader, by some unthinking, and by some most ungrateful † men, as the chief leader of what are now deemed liberal opinions.

Upon Sir Samuel Romilly's lamented death, (the greatest misfortune that has befallen the country since that of Mr. Fox, for he died at the height of his power, and when a new career of usefulness had opened to him with his extended influence,) the reform of the criminal law was taken up by Sir James Mackintosh, with congenial feelings, and great resources of learning, philosophy, and eloquence, and a large experience derived from his judicial station. All the friends of enlightened and humane legislation cheerfully rallied round so able a leader, and he was, of course, vehemently opposed by the government of the country. Lord Castlereagh was at his post, as were the Attorney and Solicitor General of the day at theirs; the Judges lent, as usual, the weight of an authority, not then estimated at quite its just value, on such points, against all change of all laws; Sir Robert Peel, and the other lesser authorities, were all ranged on the same side, mustered by the watchword—'*Resist all change!*' The friends of sound policy carried the day, and Sir James Mackintosh succeeded in his motion for a committee to inquire. This important victory was, some time after, followed by important events. For Sir Robert Peel, having opened his eyes to the merits of the bullion question, and one or two

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\* Lord Brougham and Mr. Whishaw.

† We allude to, we hope, only certain of the Catholics. They have chosen to consider Mr. Canning as the person to whom they lie under the greatest obligations for their emancipation. Yet, without undervaluing the services, of a very secondary cast, which that able and eloquent man rendered to their cause, *can* they have forgotten that Lord Grey, Lord Grenville, &c. sacrificed office to it for the best part of their lives, while Mr. Canning never once affected to make any sacrifice whatever to it?



others, became sensible how much he had erred in his former conduct; candidly avowed his conversion; and began to doubt the soundness of his opinions and votes on the questions connected with law reform. In a word, he became a law reformer himself; and though as yet he has not gone so far as was to be expected from the clearness and strength of his opinions, the acquisition of such an ally is, on many accounts, of extreme importance to the cause of juridical improvement; and there can be no manner of doubt that it will facilitate some of the great steps now in contemplation.

The object of the present remarks is, to invite the reader's attention, and, if possible, that of the government, to the very important question concerning the punishment of death, debated so often in the last Parliament. Sir Robert Peel's bill for consolidating the laws respecting forgery, while it abrogated the capital punishment in a few cases, left it, unfortunately, in the great bulk of those to which practically it has ever been applied; particularly the case of bills and notes. This gave rise to the discussions in the last session of that Parliament, and is the ground of our present remarks.

Those who have objected to the punishment of death, may be ranged under two classes;—the reasoners who deny the lawfulness of taking away life for any offence; and the reasoners who contend that capital punishments defeat their own object, and are not effectual to the purposes of penal infliction.

The first of these objections leads to a wide and intricate discussion; but it appears to us, upon the whole, untenable. At least we conceive it to be untenable, unless there be rational grounds for denying that any exigency can justify the shedding of human blood. If it be admitted that capital punishment has sufficient power to deter from the commission of crime, (and in order to try the question upon the first ground, we must admit this,) then there can be no good reason assigned for not taking away the lives of great, and cruel, and hardened offenders. The question is thus to be stated: The duty of the lawgiver is to prevent murder and rapine; to make life and property secure; to put down enormous crimes, which none but the most desperate of men would commit, and which make life not merely uncomfortable, but wretched—crimes which are inconsistent with all orderly government, and threaten the very existence of society. Suppose it is allowed that putting the convicted offender to death has sufficient efficacy, by way of example, to prevent the commission of such offences, there can be no reason against taking this course, unless we also deny the right to destroy an enemy who invades our country, or an individual who seeks our life. The denial of the lawfulness of doing this assumes the existence of some law against the provisions of which the act is supposed to be done. What is this law? Not certainly the law of nature; for that presents all measures as not merely justifiable, but fitting, in self-defence. Not certainly the revealed will of God; for there is no system of religion which does not contain express enactments of a capital nature against various crimes, except, perhaps, the Christian religion; and that is silent upon the subject, and must be understood to refer on this head to the provisions of the Mosaic law—a code full of capital inflictions. But it is said that the punishment of death differs from all others in a very important particular,—it is irrevocable. When a man is sentenced to imprisonment or banishment, and his innocence is afterwards discovered, his sentence is easily



remitted; but if a man is put to death, and the error of his judges is afterwards made apparent, a grievous load lies on the public conscience; for a judicial murder has been committed. We are not insensible to the force of this consideration; it is well deserving of influence, and should in all cases make the lawgiver incline strongly against capital penalties. Yet is there somewhat of deception in the argument, if those who use it intend to maintain that the difference is *specific*, and that capital punishments alone are by their nature irrevocable. A man has by mistake been convicted and subjected to five years' imprisonment or transportation; when his innocence is made to appear, the residue of his term is of course remitted. But how can he be restored against the five years' suffering which he has already endured? Is not that infliction of necessity irrevocable? He has suffered so much, and that can never by any power be undone. The legislator is, in truth, to assume that such errors will not be committed; he is to adapt his laws to the ordinary course of events; and the possibility of innocence suffering, hard though it be, ought not to decide the question in hand: otherwise it would be an argument against our punishing in any way.

The second head of objection is certainly the most deserving of attention. In most cases capital punishments are found to frustrate themselves. Granting that the public spectacle of an offender put to death has the effect of deterring the beholders, and those who hear of it, from repeating the same offence, the question is, whether this can, in every case, be safely exhibited, and whether, in many cases, it can be exhibited at all? One observation may here be made: If no circumstance is to be taken into the account, except the power of graver examples to deter from following the criminal courses that led to them, then no crime, how light soever, should be punished, except by death; for the well-being of society requires that all crimes shall be prevented, and the securing of that well-being is the first duty of the lawgiver. But this scheme, almost invariably found to have been adopted by nations in some early stage of their jurisprudence, and very nearly realized in the criminal law of England at a recent period, is liable to so many plain and unanswerable objections, that we need hardly enumerate them. The principal are, that no proportion is kept among crimes of different degrees of enormity, and an inducement is thus held out to commit the worse offences; that the feelings of mankind are apt to run against the punishment, and thus to be turned in favour of the offence; and that the frequent spectacle of blood tends of itself to harden the hearts, and corrupt the nature, of the people, — thus fitting them for the worst of crimes. These considerations, which all men will admit operate in the extreme case, as we have been putting it, are found to operate, more or less, in the intermediate cases also.

We shall now take the example of that offence which was of late principally discussed in Parliament, — the crime of forgery. We admit, in the outset, that none can more injure a commercial community; that none more destroys the confidence of society; that none more endangers large masses of property; that it is frightful to think of the mischiefs which it may occasion; that to commit it a man must have become so lost to all feelings of honour, to all regard for the welfare of others, and all respect for himself, as to have forfeited every claim to compassion. Nay, we will go a step farther, and allow that those who, in many cases,



commit it, have made up their minds to quit their country, being in desperate circumstances, at any rate, and that the fear of a public and ignominious death might affect them, when the punishment of transportation may have for them lost its terrors. Still, and after all these concessions, the question recurs, can we rely on the capital infliction in this case, — opposed as it is to the generally, if not universally, prevalent feelings and opinions of the community? The question is plainly one of fact. The dislike of hanging for forgery is a fact; no one who is practised in the police or the law of the country ventures to deny that men, generally speaking, are averse to see life taken away for the crime of forgery; and all who are so practised admit that a rooted disinclination prevails in every quarter to aid in the enforcement of a law so adverse to the general feeling. First of all, those who are defrauded refuse to prosecute, because they may be the means of putting a fellow-creature to death. Next, witnesses give their testimony with reluctance, and are apt to strain a point in the prisoner's favour. Then many, who know facts material to the case, put a padlock upon their lips, for fear of being compelled to come forward; and those who are known, and therefore summoned, refuse to hold any previous communication with the agents for the prosecution, which makes it unsafe to call them. Again, the jury are disinclined to convict, and try every means of acquitting. Lastly, the sentence is passed, but only executed in a small proportion of cases. Now all these chances of escape are known to evil-doers; they are aware that the letter of the law says they shall suffer death if they forge; but they know that, though the letter may kill, the practice gives them many chances of escape; and that even if convicted, they incur not a certainty, but only a risk of about one in eight or nine, of suffering death. All this uncertainty defeats entirely the object of the enactment. It makes the law any thing rather than dreadful. It leaves men to speculate on probabilities, and calculate the chances.

How much more efficacious would a penalty of a lower nature be, which was nearly certain to be always enforced. It is plain, that if any punishment, however inconsiderable, were absolutely certain to follow the offence, its commission would be infallibly prevented in almost every case. If it was clear, for instance, that a thief, within four-and twenty hours of committing the offence, would be obliged to restore the stolen property, and suffer one day's imprisonment, theft would be abolished in all cases but those of something like mental alienation: and so of other crimes — all motive to commit them would be at an end. But this certainty involves three things — that the culprit shall be detected — that, when caught, he shall be convicted — and that, when convicted, he shall suffer a fixed inevitable penalty. The legislator has considerable power over all these three ingredients of penal certainty, but not, by any means, equal power. The first is the least within his control; the last is the most subject to him. Whatever tends to improve criminal police, undoubtedly increases the chance of detection; but much also depends upon the co-operation of individuals; for let the police be ever so perfect, if a party injured neglects to complain and furnish the clew to investigation, the culprit must escape. So of the second ingredient of certainty — the chance of conviction. The more accurate the rules are of judicial procedure, and the better the hands in which the administration of justice is placed, the less chance will there be both of innocence being condemned and of guilt escaping. But whatever



excellence the system of jurisprudence may have attained, and in what hands soever its powers are vested, if parties injured, witnesses, or the public functionaries themselves, have an indisposition to call down upon the head of the accused the punishment denounced by the law, the guilty must oftentimes escape. The third ingredient,—the certainty of a convicted person suffering the penalty awarded,—can only be frustrated by gross misconduct in the tribunals; unless, indeed, we can suppose a case so absurd, so contrary to all rational principle, as the criminal code denouncing punishments without intending that they should be inflicted.

Let us see how these ingredients of certainty are affected by the punishment in any case being incommensurate to the offence, or supposed, by the prevailing opinions of men, to be so; in a word, by the public voice being very decidedly against the enactments of the law. Manifestly, this unfortunate circumstance will affect every one of the three. Parties will not denounce the guilty, nor help the pursuit, nor in any way aid the public functionaries. Witnesses will be loath to come forward; judges and jurors will be slow to convict; or, which comes to the same thing, they will be astute to find difficulties, and espy imperfections in the evidence. Lastly, when the conviction has taken place, the tendency will be to prevent the sentence from being executed, by straining the law, so as to let the party escape, or by obtaining a pardon for the offence. To these sources of uncertainty must be added one, the worst of all, because at once the most copious, constant, and unreasonable, not to say ridiculous,—the idea, of late years so much inculcated, that the law is, in many cases, meant only as a denouncement, and not to be actually executed; something like burning men in effigy, or firing over their heads, in order to alarm and not to hurt them.

It is quite certain that the capital punishment of forgery sins in all these ways, by lowering every one of the three ingredients of certainty. Men's minds are set against it. This was natural and inevitable, independent of any accidental circumstances; but the conduct of the Bank of England in its prosecutions greatly increased the unpopularity\* of the law; and it is undeniable, that in a large class of the community, and especially the mercantile portion of it, religious views and moral feelings mixed themselves, so as to make the repugnance altogether invincible. The consequences have been fatal to the efficacy of the law. Men have suffered losses to a large amount, and repeatedly, without complaining, because they knew that their complaint was the death-warrant, and might be such, of a fellow-creature. Others who could give evidence kept their lips sealed, for fear of being called upon as witnesses, should it be known that they possessed any criminatory information. Jurors have again and again refused to convict upon the clearest proof. But more absurd than all,—more discreditable to the law, and more fatal to every thing like certainty,—it has come to be an understood thing, that though the statutes say forgery shall be punished with death, they mean no such thing,—that their sense rather is, forgery shall not be punished with death; at least, that in eight cases in nine the sentence of death shall be pronounced, and another punishment, not mentioned either in the law or the sentence, shall be

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\* *Popularity* is the term employed by Mr. Bentham to denote the punishment being adapted to the feelings of mankind.



executed by a kind of compromise or bargain with the offender. Now, as no man can tell, while the law remains in this state, whether, in any given case, the sentence really shall be executed or not, parties, witnesses, and jurors are left in doubt, and act from apprehension of the punishment being inflicted; while to the mind of the criminal, in the act of resolving upon doing the crime, nothing is presented but a confused picture of crime, chances of escaping detection, and escaping conviction, ending in an avowed lottery of eight prizes to one blank, supposing detection and conviction both to have taken place.

It is sometimes said, that men do not feel the influence of such calculations in the moment when deliberating upon the commission of crimes. Nothing can be more unfounded than this remark, and nothing more absurd in the mouths of penal legislators. Men do certainly speculate upon the chances of escape and conviction, with a leaning, no doubt, to take the sanguine view. But, at all events, they acquire a habit of regarding criminal acts as more or less perilous, according as the chances of suffering are greater or less. This habit it is, formed in cooler moments upon each man's observation and reflection, and upon communication with others, that mainly operates to deter from crimes. If it has become notorious, and almost proverbial, that forgery has more chances of escape than most other grave offences, assuredly its commission will be more frequent. But suppose we are wrong, both as to the fact of wrong-doers weighing probabilities of escape on the eve of doing the act, and as to the way in which habits of regarding the act are formed, still, we ask, can any thing be more absurd than for the legislator to hold that men are not influenced by such considerations? What else justifies penal infliction? What other ground has the law-giver for punishing at all, but the hope that example will deter from commission of the offence once punished? It is precisely to the mind of the wrong-doer, and on the assumption that he weighs chances and reflects upon risks, that the law professedly appeals. If example can deter, it is either by striking the mind at the moment of deliberation prior to offending, or by forming the opinion, and giving the habitual impression, that to offend is full of danger.

If the chances of escaping death, after conviction for forgery, are eight or nine to one, little or no benefit, we may be well assured, can result from the idle denouncement, in deterring the offender, who will think nothing of so remote a risk, and will be led away by his passions. But if no good, in deterring offenders, be done by the severity of the legal enactment, so rarely put in force, there is a clear balance of mischief produced by it; because the chances of detection and of conviction are exceedingly diminished by the severity of the same enactment. Therefore, it is clearly against all sound policy to preserve it in name, while it is not really in force. The only use of its great severity is gone, and the same severity counteracts the design of the law.

There can be no doubt that such considerations as these had long prevailed among thinking men, and induced them to regret the punishment of death for the crime of forgery. Mingled with these views of expediency, however, there were others belonging to the first class of objections, which we have already discussed; and it was, for some time, believed that no practical men held the opinion adverse to the capital penalty. It is true, that the most glaring instances were continually recurring of malefactors, who deserved the highest punishment,



escaping altogether. Men were every day seen submitting to be plundered by forgers rather than prosecute; others were observed to favour, in all ways, the escape of the worst criminals, by suppressing evidence, and even by giving in verdicts of acquittal, when evidence was adduced that sufficed to prove guiltiness. Still it was thought that those in trade, whose interests were principally concerned in the question, more especially persons engaged in the business of banking, were against any alteration of the law, and felt satisfied with the protection afforded them by the capital enactment. The memorable Petition of the Country Bankers put an end, at once and for ever, to this imagination. That petition is a most important fact in the case,—a fact, indeed, from which there can be no appeal. Nine hundred persons, many of them representing firms engaged in the business of banking, approached the Parliament with a serious complaint of the inefficacy of the law, as it now stands and is now administered, to afford them the protection in their business which they deem their right; and the ground of their complaint is, that the punishment of death being denounced against the crime of forgery, almost ensures the escape of the offenders in so many instances, that the crime is not adequately prevented. To this statement there was no answer. To the prayer of the interested party there could be no refusal connected with the principle on which the punishment was pretended to be enacted; for it was said to be decreed in order to protect those bankers, and they complained of the measure intended to protect them, and entreated the Legislature to give them any other kind of protection, stating, that this injured instead of succouring them. No man could charge these petitioners with being speculators, or visionary and theoretical reasoners. They were plain, practical men of business, speaking of their interests in a mercantile point of view. It was not their feelings that were excited; it was not any notion of capital punishments being unlawful that had got possession of them. They spoke merely from their experience as bankers, peculiarly interested in putting down the crime of forgery by all means, because that crime was more pernicious to them than to any other class of the community; and, telling the plain tale, that they had found the punishment of death increase forgery instead of diminishing it, they entreated the Parliament to protect them by altering the penal enactment.

It is not surprising that such striking facts as these, coupled with all the other considerations to which we have adverted, should have produced their due effect in the discussion of the question raised by Sir R. Peel's bill, which very unexpectedly left nearly the whole class of forgers subject to capital punishment. The point was debated with all the fulness and deliberation which its extreme importance demanded; and at length, by a considerable majority, the cause of sound principles triumphed; the capital penalty was thrown out of the bill in all the cases of importance, especially in that of bills and notes, being really the whole question.

It is painful to be compelled to state the part which the late Ministry deemed it not unworthy of them to act upon this occasion. There was no want of assertion, nay of asseveration, that the question was not made a ministerial one; but there was also no want of summonses to ministerial members in the accustomed manner, and no want of all those means usually employed to enforce attendance on questions supposed most interesting to the Government of the day. In truth,



great exertions were making by all the underlings to obtain a victory, at the very moment when the Ministers were declaring, and, we doubt not, conscientiously declaring, that the question was not a Government question. And we have been apprised of the names of some converts to the Treasury, who, with the proverbial zeal of all disciples, were to be seen hurrying towards their places on the Government side, and were to be heard assigning as a reason for their haste, that ‘the Ministers were expected to be pressed!’ All this management — all this base zeal — this *prava diligentia* — happily failed, and truth prevailed.

The more pleasing task remains of commemorating the pious labours of those whose active exertions helped to win the day. First, as a matter of course, the amiable and persevering zeal of the Society of Friends was everywhere conspicuous; insomuch, that an argument was derived from it against the measure. ‘These petitions,’ it was said, ‘are got up by the Quakers. Mr. Allen and Mr. Barry are *agitating* the country and procuring petitions.’ Nothing more silly and thoughtless, we will venture to assert, was ever suggested to explain away a troublesome fact or an ominous appearance. What kind of a cause is that which can obtain nine hundred petitions in its behalf as soon as a few Quakers think proper to call for them? What sort of law must that be, the repeal of which is loudly demanded by so many respectable men, at the request of William Allen and J. F. Barry? But what measure is it which nearly a thousand bankers sign their names to recommend — ay, and to recommend against the known wishes of the government, and in abrogation of the existing law of the land, merely because a committee of London Quakers desire it? Are bankers, of all men, so very careless of signatures, — so indifferent to the act of signing their names, that the moment any one shows them a petition to Parliament, down go their names to it? But again — what petitions were there on the opposite side of the question? If it was all zeal and contrivance that procured the Bankers’ Petition to be relieved from the pressure of the law for the encouragement of forgery, as they deemed it, where were the petitions of the other bankers, who were friendly to the existing law, and deemed their property safe under its protection? These petitions were not to be found; and this fact speaks volumes in favour of our opinion, and in refutation of the vain cry attempted to be raised against the petition presented.

The triumph that had been gained, and which so gladdened the hearts of the wise and the good all over the country, was, we grieve to say, shortlived. The Government was inexorable. Sir R. Peel did not here, as in the case of the Test Act, when the House of Commons decided against him, abandon his opinion and go on with the measure of his adversaries. He did not treat the errors of the law as he had done the vaunted security of the Established Church — abandon it because the House had outvoted him. He did not, as he had then done, adopt his antagonist’s bill, and volunteer his help to carry it through Parliament, as soon as he had been foiled in his opposition to it. On the contrary, the instant that the contested clause had been flung out of the bill, he abandoned the whole of his own measure, and left his adversaries to carry it through its remaining stages, without the important aid of ministerial influence to protect it. They contrived to do so, and the bill went to the Lords. The Duke of



Wellington and his colleagues there opposed it, and the Lords threw it out.

The hopes of men were thus damped for a season. But let it only be observed, in what a predicament the Lords have deliberately left the law on this important subject. If there were difficulties in the way of detecting, and convicting, and punishing offenders before, from the general feeling and the prevailing opinion upon the subject being hostile to the capital penalty, how mightily are these difficulties now augmented, when the general feeling out of doors,—when the prevailing opinion of the country, has been sanctioned by a majority of the House of Commons; and a bill founded on those feelings and opinions, and as it were embodying them in a legislative form, was actually passed, after the fullest deliberation, and sent by the one House of Parliament for the adoption of the other! Surely parties, witnesses, jurors, nay judges themselves, will now feel that the capital punishment is stigmatized by the highest authority, will more than ever lean against inflicting it, and will render the law more than ever a dead letter. These considerations struck not the Lords' House of Parliament, but they add new force to all the arguments urged against the law as it now exists; and they will doubtless lead to renewed, and, it is to be hoped, successful efforts for its amendment.\*

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*NOTE to the Article on the Capital Punishment of Forgery.*

WE desire to be understood as by no means lending our countenance to the mischievous attempts of a most mistaken zeal, or what may truly be called a perverted humanity, to interfere with the ordinary course of criminal justice in particular cases of capital punishment. If the laws are wrong,—and we have endeavoured to show they are wrong,—nothing can be more praiseworthy than the efforts of enlightened and considerate men to amend them. But surely there is neither reason nor true philanthropy in the course pursued by some well-meaning but unreflecting persons, who never see a capital punishment about to be inflicted by the law as it at present stands, without raising an outcry against it in *the individual case*, and even making direct exertions to prevent the execution of the sentence. What is the consequence? Petitions are got up, and the community is canvassed to sign them. In one well-known case, (where a quaker was condemned for forgery,) copies of the petition for mercy were lying at every fourth or fifth shop in the frequented thoroughfares of London. A vast multitude of signatures were obtained; but the government had the sense and firmness to resist this unbecoming importunity, and the law took its course. Of late, a new line has been pursued, and public meetings are actually held to debate the merits of *particular sentences*; to excite sympathy with the culprits as victims of a cruel law; and to raise indignation against the prosecutors and the judges. The crimes, too, are not like that for which the quaker suffered; but acts of the most atrocious violence, approaching in their guilty intent as near as possible to murder, and only not ending in the loss of life through mere

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\* See a sound and convincing Essay on the Inefficacy of Capital Punishments. Vol. xxxv. p. 314.



accident. It is the perpetrators of these acts who are held up as objects of mere pity; and no quarter is given either to the injured parties who complain, or to the ministers of justice who would prevent a repetition of crimes, that make all property insecure, strike dismay over the peaceful inhabitants of whole provinces, and are inconsistent with the very existence of civilization.

To show the utter ignorance of the pretended friends of humanity who hold such meetings, one of them praises the Parliament of Edward III., which passed the Treason Law, as ‘the *blessed* Parliament, in which there were no lawyers,’—confounding it with one some generations later, in which it is notorious to the merest smatterers in learning, that no law was passed which ever was heard of afterwards. Another orator (and the meeting seems to have gone with him) denounced as cruel and unjust all *Special Commissions*! As if any one in his senses ever doubted the expediency of trying offences as speedily as possible after they are committed. We trust that nothing contained in the text of our Article on the Capital Punishment of Forgery will be found to give the slightest countenance to such miserable follies as these.\*

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\* The space allotted in this work to Disquisitions on Political Economy, Law, and Jurisprudence, is more restricted than I could have wished. Many articles of considerable value have been unavoidably omitted; and in making a selection, which, from such a prodigious mass of matter, was no easy task, I have been anxious to retain those articles that have a reference to subjects, in the discussion of which the public, in the present state of society, feel a lively interest. Of the rejected dissertations, there are several to which the reader may feel desirous to refer. A Review of Canard’s Principles of Political Economy, Vol. i. p. 431., and of Earl Lauderdale’s Inquiry into the Nature and Origin of Public Wealth, Vol. iv. p. 343. Ricardo’s Theory of Taxation examined, Vol. xxx. p. 59. Strictures on Mr. Owen’s Scheme for relieving the National Distress, Vol. xxxii. p. 453. Malthus and Godwin’s Theories of Population, Vol. xxxv. p. 360. On the Funding System, Vol. xxxix. p. 1. Rise and Fall of Profits, Vol. xl. p. 1. Fluctuations in the Supply and Value of Money, and the Banking System, Vol. xliii. p. 263. Sadler’s Law of Population, Vol. li. p. 297., and Vol. lii. p. 504. Census of the Population Laws of Mortality, Vol. xlix. p. 1. On the Necessity of reducing Taxation, and abolishing Agricultural and Commercial Monopolies, Vol. xlvi. p. 390. The American Tariff, Vol. xlviii. p. 390. Review of M’Cullough’s Principles of Political Economy, Vol. lii. p. 338. Bentham’s Principles of Legislation, Vol. iv. p. 1. The Regency Question, Vol. xviii. p. 46. Bentham’s Theory of Punishments, Vol. xxii. p. 1. Abuses in the Court of Chancery, Vol. xxi. p. 103. Vol. xxxviii. p. 281. Vol. xli. p. 406. Bentham on Criminal Procedure, Vol. xl. p. 169. On the Justice of extending the Benefit of Counsel to Prisoners, Vol. xl. p. 74. On Scotch Judicial Reform, there are several able articles in the Edinburgh Review. See Vol. xxxvi. p. 174, on the Nomination of Scotch Juries; on Scotch Criminal Jurisprudence, Vol. xli. p. 450. Scotch Entails, Vol. xliii. p. 442. Independence of Scotch Judges, Vol. xliv. p. 397. Scottish Judicial Reforms, Vol. li. p. 112. On the subject of Taxation the Edinburgh Review contains many articles which have had a most beneficial tendency, in attracting the attention of the public to the erroneous principles by which the taxes imposed by the Government have been regulated. It will be perceived that many of the reductions on articles of general consumption, which have been recommended by the present Ministry, were repeatedly suggested by the Edinburgh Reviewers. The reader is requested to consult the following articles. Comparative productiveness of High and Low Taxes, as exemplified in the Tea, Salt, Wine, and Spirit duties, Vol. xxxvi. p. 517. Repeal of the Tax on Foreign Wool, Vol. xxxix. p. 109. Restrictions on the Wine Trade, Vol. xl. p. 414. Reductions of the Duty on Coffee,



## POLITICAL AND VESTED RIGHTS.\*

A LOVE of change, a contempt for antient forms and institutions, a carelessness when the rights of property are in question, are among the very last charges which can be laid at the door of the English people. In the year 1817, to the astonishment of civilized Europe, a gauntlet was thrown down in the principal Court at Westminster, and a criminal who was accused of murder was held entitled to defend himself by judicial combat. Whether the dramatic dialogue and scenic representation, by which the conveyance of property, under the form of a Recovery, has been turned into a series of fictions and buffooneries, shall continue to be kept up for the profit and amusement of sergeants at law, is even now a matter of grave legal deliberation. The caution with which our nation has always contrived to get on from time to time with the least alteration that would answer the immediate purpose, has had its disadvantages as well as advantages. But on the whole, from the excellent quality and position of our early institutions, from the plastic skill with which our successive alterations were moulded, adjusted, and applied to the original building, and, above all, from the wonderful good fortune with which events played into our hands, there can be no doubt but that the advantages in favour of our experimental process have greatly preponderated.

Under these circumstances, whenever an occasion should arise of the great body of the English people calling for a change, their previous conduct will have earned for them the presumption that there is good reason for their call. It may be further presumed that, in case any specific change shall have found favour in their eyes, its proposers were able to show cause for every deviation which it contained from antient forms and institutions. Above all, valid protection for every thing reasonably entitled to the name of a private right, whether of property or of any other description, must have been indispensable, as a condition precedent to their approbation. It may also, in such a case, fairly be supposed, that the public was satisfied that the remodelling of such public rights as needed reforming had been undertaken, as far as they could judge, on solemn prin-

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Vol. xli. p. 488. Considerations on the Timber Trade, Vol. xliii. p. 342. Duties on Brandy and Geneva, Vol. xlv. p. 169. Sugar Duties, Vol. l. p. 426. Malt and Beer Duties, Vol. xlix. p. 362. Duties on Coals, Vol. li. p. 175. Impolicy of increasing the Duties on Spirits, Vol. l. p. 486. Strictures on Goulburn's Finance Scheme of 1830, Vol. li. p. 211. Taxes on Literature, Vol. liii. p. 427.

\* 1. Speech of Robert Monsey Rolfe, Esq., delivered in the Guildhall, Bury St. Edmunds, on the 2d day of May 1831; on occasion of his being put in nomination at the General Election as a Candidate for the Representation of that Borough. 2. Conciliatory Reform. A Letter addressed to the Right Honourable Thomas Spring Rice, M.P., on the means of reconciling Parliamentary Reform to the interests and opinions of the different orders of the community; together with the draft of a Bill, founded on the Ministerial Bill, but adapted more closely to the principles and precedents of the Constitution. By Francis Palgrave, Esq. of the Inner Temple, Barrister at Law. 3. An Address to the King, the Lords, and Commons, on the Representative Constitution of England. By H. A. Merewether, Esq. Serjeant at Law.—Vol. liii. page 502, June 1831.

ciples and sound analogies, and that the whole proceeding was based upon, derived from, and tending to no other consideration than that of the public good.

It is our firm opinion, that the character of the English people in this respect is still unchanged ; as it is our trust, that notwithstanding all provocations and deceptions, this great national characteristic will remain unchangeable. Late events confirm rather than shake us in our confidence. It is no new theory of the Rights of Man, or of the English Constitution, after which, in their approbation of the Reform Bill, the people are said to have run wild. No exception to the above remarks can be fairly stated to exist in the almost unanimous demand of the middle and lower classes, that the House of Commons should really answer to its name — should become a *representative* Assembly, and representative of the *Commons*. There can be no question concerning the sentiments of the grave Clarendon on this subject, when, notwithstanding his known devotion to every atom of our establishments, and whilst writing with the bitterness of an exile, he felt constrained to recommend the precedent even of Cromwell for imitation. Mr. Justice Blackstone, were he now alive, would have perceived no contradiction between the popularity of the ministerial measure of Parliamentary Reform and our antient reputation for solidity and truth. That ‘orthodox judge,’ as Gibbon justly calls him, lays down the principles of the constitution in utter variance with the practice which we are superseding\* ; but in complete accordance with the practice about to be introduced. He describes it as a *misfortune* that the deserted boroughs continue to be summoned ; and agrees with Lord Chatham and Mr. Pitt in the propriety of ‘a more complete representation of the people.’ Accordingly, he must have agreed, (unless, as in the case of Wilkes, he could have been prevailed on to contradict his own book,) both in the *disfranchising* and *enfranchising* parts of the present Bill — in what it takes away as well as in what it gives. After making the same painful distinction, as Montesquieu also was obliged to make, between our theory and our fact, it is impossible to doubt but that Blackstone, were he alive and honest, must have rejoiced in the removal of those ‘deviations and corruptions’ which length of time, and a loose state of national morals, has too great a tendency to produce.’ Mr. Christian, Professor and Judge, and twice as orthodox as even Blackstone himself, lived to superintend the fifteenth edition of these Commentaries. Within the last few years, half a dozen different editors have prepared as many different editions of the work, in the shape of a text book for English magistrates and students. What were these learned writers about, and how comes it that they were permitted, without comment or contradiction, to mislead the young and ignorant, whom it was their express office to instruct, if the withdrawal of the summons from deserted boroughs, and the substitution of a more complete representation of the people, is a change which deserves the obnoxious name of *revolution* ? If it is not a revolution, what are we to think of Sir Robert Peel, who so designates it ? Again, can these writers have been in cool blood, and in their studies, countenancing perjury and confiscation ? Probably not ; yet election advertisements and speeches

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\* Commentaries, v. i. p. 171.



are crowded with such imputations. The freemen of Bury are warned to oppose the amendment of the constitution, by their oaths and by their God. Sir Charles Wetherell stuns the House of Commons with the shout of corporation robbery. Mr. H. Drummond lectures the freeholders of Surrey not to enter into a political partnership with Jonathan Wild. And the ingenuous disfranchiser of the whole county constituency of Ireland is reported to have told the good people of Tamworth, that the safety of property was incompatible with *Schedule A*.

Honest men ought to join in protesting against the system of false alarms and fallacies which has been too long and far too successfully indulged in. An object of temporary delusion may be served; but all confidence on the part of the common people, in the understanding or good faith of their superiors, must be ultimately endangered by it. Nothing, for instance, would tend more effectually to destroy the supposed professional value of the political apprehensions manifested by the Church of England at the present moment, than a collection of the occasions on which the cry of 'the Church in danger' has been raised during the last century and a half. A more than proportionate reaction is the consequence of detected attempts to impose on our ignorance, credulity, and fears. Under ordinary circumstances, the difficulties which the common people must encounter in any attempt to get at truth is a very melancholy consideration. Besides the regular traders in daily or weekly falsehoods, the main arrangements of Parliamentary debate are got up on the principle of scene painting; with a broader outline, and features more highly coloured than the life. On an occasion like the present, it is surely a most dangerous as well as violent extension of the privilege of exaggeration, to misrepresent a recasting of political franchises, on public grounds, under such terrible denunciations. The nature and course of the following observations will be proof at least that our defence of the right of legislative interposition, and of the mode which the government is pursuing in it, is founded on more impartial and more comprehensive views than the politics of the day. It is not worth while to define property, and travel through an elaborate analysis, in order to show that the elective franchise, whether attached to an Irish forty-shilling freehold, to the non-resident qualification of an individual, or to the corporate character of the members of a corporation, is not *property*. The common sense and feeling of mankind are also agreed on this additional distinction:—property, when vested in private individuals as such, and therefore called private property, is held on very different terms and presumptions from property which is vested in persons sustaining a public character, or members of a public body, and which is therefore considered to belong to them solely in that right.

The misrepresentations alluded to call for a few elementary words on the subject of Rights. We know of no sanctuary, or ark, where a catalogue of rights, abstracted from all human circumstances and considerations, has been deposited by nature, and where they are to be found ready arranged and ticketed according to their metaphysical precedence. Man, on a survey of the earth, and of his partners in it, and after an examination into his own nature and condition, must make out for himself the list, and marshal its degrees in the best manner that he can. All notions of God and of conscience must be very different from what reason can undertake to justify, if they are of a kind to embarrass



this moral scale by the introduction of any other element or measure than that of the greatest amount of happiness — greatest both in quantity and quality — to which the whole system of Being, within the reach of our conduct and consideration, can attain. The generality of this test is by no means inconsistent with a heraldry of degrees in nature. The very fact that a moral obligation of acting as arbiter in such claims is felt to be imposed on man, as a part of his constitution, of itself marks out his rank among the creatures of the earth. All creation gains by his interposition. Compare, even as far as the condition of other subordinate animals is concerned, a region cultivated and civilized by man, with one which Providence has not placed as yet under his guardianship and control. The same principle applies in every balance of contending duties, in the case of individual conduct, and in all possible competitions among supposed rights between different members of the great family of mankind. As personal prudence settles the question between higher and lower pleasures within that moral government which every rational man has to establish over himself; so must it be philosophically true, — first, that no case can be made out for the classing any thing whatever under the description of rights at all, which does not, on the whole, contribute to the general happiness of mankind; and next, that no standard of rights can be just originally, or long remain so, which is not constructed, and, as occasion may require, corrected, on the principle of encouraging the formation, development, and protection of the different sources of enjoyment of which our nature is capable, in direct proportion to the best estimate which we can make of the comparative excellence of these enjoyments.

Natural rights and duties are spoken of in a double sense. In their first and most extensive meaning, they include all the maxims and rules, however obscure and variable, by the observance of which, nature (that is, the earth in its productions, and mankind in their intercourse with each other,) can be made to produce the greatest mass of enjoyment. In their narrower sense, the one in which they are ordinarily contrasted with *legal* rights, they mean nothing but those simple propositions which are so intimately connected with, and immediately derived from, the *nature of man*, that they appear to be of universal evidence and application. The difference is perhaps only in degree betwixt these two meanings; but it is often so important as to seem a difference in kind. Cases arising under the first, according to circumstances and occasions, are frequently dependent upon, and made the slave of, positive law. It is the prerogative of the latter to be not only more generally independent of positive law, but in great extremities its master. Such are those few cases of general rules, in which it is dangerous for casuists to admit the possibility, and still more difficult for them to prove the actual occurrence of an exception. Rights and duties of this latter description want little from philosophy by way of proof, and as little by way of secondary and artificial sanction from the law of the land. This sanction, however, it is even more necessary, for the peace of society, to fix upon them than on the more vague and doubtful instances of the former class. Parricide need not be left out of the criminal code, as a horror beyond human legislation. Institutions essential to the prosperity of our species, as the institution of private property, for instance, should acquire only additional sacredness as a rule, from the solemnity with



which the law approaches and enforces any necessary exceptions to that, the creation and preservation of which is by far its greatest object. Instead of wounding the moral affections, checking freedom in the exercise of the understanding, or violating conscience in any form, the law ought to raise for them, by its provisions, a visible home and asylum. Of course it is of the last importance that, in respect of those clear rules, which can never be contradicted, either by individuals or nations, with impunity, the *law of nature* and the *law of the land* should be in strict concurrence. In case they both agree, all is well. Wherever they differ, one of those terrible necessities arises, in which a virtuous man has to determine between the immediate evil consequences of legal obedience on the occasion in question, and the contingent mischiefs which may result to society from the example of a private citizen setting up his personal scruples in opposition to the law. In an instance of this sort, it cannot be doubted but that all disagreement between these laws should be removed the instant it is recognized. There can be as little doubt which of the two ought to give way. In his gifts of humanity and reason, God has provided that few mistakes comparatively shall take place under this extreme division.

The next stage of inquiry runs out into that extensive sphere, within which rights and duties, either from not being originally so self-evident, were more easily misunderstood and overborne; or where, by a change in the condition and mechanism of society, institutions and rules, which were originally useful, have become useless, or perhaps pernicious. There are virtues and vices even, which are virtues and vices of circumstance only. These accordingly have left them space to turn in, and must change their nature and proportions, according as they apply to different nations, periods, and ranks. Lord Bacon said long ago—‘If vices were, upon the whole, matter profitable, the virtuous man would be the sinner.’ It is the duty, therefore, of wise and honest legislators, to freely inquire whether they or their predecessors have originally mistaken, or violated, this inferior class of rights and duties in the ignorance or passion of positive legislation; and also, to be cautiously and continuously watching to discover whether any changes have arisen, or are arising, in the formation and distribution of those physical and moral elements which constitute society. An alteration in the wealth and wants, opinions and feelings of mankind, requires simultaneous and analogous alterations in the political, civil, or criminal code of a nation. Laws, which it might have been madness in one age not to make, it may be more mad to continue in the next. To insist upon a people being governed by the same laws, in spite of these changes, is to destroy human happiness more certainly than if we were compelled by statute to subject our bodies, in injury or sickness, to the imperfect experiments of our ancestors; or than if grown-up people should be obliged to sleep in the cradles and amuse themselves with the rattles of their infancy. If, on comparing our own knowledge with that of our ancestors, the advantage is not thought to be as much on our side in legislation as in surgery and medicine; yet the frame of society and the mind of man alters more than the human body. Moral elasticity and assimilation have their limits. Under these circumstances two opposite evils are introduced. The law which prejudice will not allow to be removed, necessity spoils as law by a looseness of construction; whilst in the subject of this



compulsory conformity, enough of outstanding pressure is left to generate disease.

It cannot be disputed, that the law of a country should be as conducive as possible to its happiness. Municipal legislation ought accordingly to vary its course, as circumstances vary, by the removal of every unnecessary restraint from the free development of human power and action. Justinian's celebrated definition of civil liberty is repeated by Montesquieu, and was adopted by Lord Plunkett in the debates on what is commonly called the Manchester Massacre. It amounts to 'the being governed by law.' This definition can be correct only on the supposition of the correctness of Blackstone's supplement to the ordinary definition of law. Yet Blackstone's own definition of civil liberty supposes quite the contrary. Paley and Blackstone agree that civil liberty consists in the 'being restrained by' 'no law but what conduces in a greater degree to the public welfare.' It would be fortunate if the latter part of Blackstone's definition of municipal law were practically true. 'It is a rule of civil conduct,' he says, 'prescribed by the supreme power in a state, *commanding what is right, and prohibiting what is wrong.*' By this confusion the most important preliminary chapter is made an inextricable and mischievous labyrinth. In this case no reforms in positive law of any sort can be ever wanted. It would be perfect the moment it was law. However, we fear that Paley is correct in stating that the law of no country does at present deserve (may we expect that it ever shall deserve?) this extreme compliment. It is, nevertheless, the duty of every law-maker to strive after the approximation. Like the asymptote, positive law may go on approaching the definition of civil liberty for ages, but in our actual condition of intellectual and moral weakness it will never touch.

There is another class of rights and duties, distinct from the great department, whose two main subdivisions we have described. The subject-matter of this class falls more entirely within the undisturbed province of the mere letter of municipal law. It consists of those cases where a rule is required to be laid down, but where it is perfectly indifferent what the rule may be. As changes always must produce a certain degree of inconvenience, when once a rule is established in a case of this sort, it will, by the supposition, be very seldom right to alter it.

These observations apply solely to the legislation carried on by the competent jurisdictions. They suppose that the distinction between judicial and legislative acts is well understood, and faithfully preserved. The judgment-seat has nothing to do with considerations such as we have been discussing. It is a property essential to the pure administration of justice, that the law should be made by a separate authority; should be publicly promulgated by it in the character of law; and put into the hands of the judge as a dry and peremptory rule, by which all cases comprehended in it are to be governed. It is no less essential to the possible reasonableness and suitableness of laws, which are to be afterwards thus rigidly administered, that the makers of them should previously, contemporaneously, and subsequently, look off their statute-book into the world. They should never mistake the spirit of a judge for that of a legislator. They are bound, in their legislative capacity, only by those great principles of which we have spoken; and a considerable latitude of discretion, in the application of these principles,



is a necessary part of the awful responsibility of their office. By way of security against any temptation and self-deception in the exercise of this discretion, all *ex post facto* legislation, in the shape of bills of attainder, or pains and penalties, should be proscribed as instruments of power rather than of law. Indeed, every instance even of prospective legislation (in order to avoid the possible bias of partialities) should be made to embrace, as much as possible, general principles and classes of men, instead of individual facts or persons. In all modifications of existing rules and institutions, the importance of keeping constantly in mind how great a burden of proof is *primâ facie* thrown on those who are the advocates of legislative alteration, need scarcely be insisted on. Some evil — to be made up to society in the end — must always attend on every, even the most maturely-considered, change. A tax even cannot be taken off without a loss being sustained in some quarter from the repeal. The further evil, comprised in incautious changes (by the amendments and re-amendments which they require), brings on the misery of frequent changes. These, by rendering the rule of conduct precarious, by unsettling the expectations of mankind, and by destroying the sense of security, may lay society waste as effectually as a barbarian invasion.

Because precautions are advisable in the exercise of a right, the obligation of exercising it may, nevertheless, be not a jot the less imperious and sacred. The laws of a country cannot be handed down from one generation to another in such a state as to supersede the necessity of revision. No nation has suffered more than our own from a neglect of this duty in our government, and from an acquiescing, or almost superstitious leaning, to the supposed wisdom of our ancestors, on the part of the people. Hence, instead of at once abolishing an institution or a law, when the object of them ceased, or after they had become positively injurious, the antient forms have been usually kept up. In the place of new means plainly and honestly directed to the end in view, society foolishly allowed itself to be juggled into the experiment of providing for permanent necessities by some indirect and circuitous method, which ought either never to have existed at all, or at best would have been good only as a temporary accommodation. Thus the judges were driven to do illegally and coarsely what Parliament was too ignorant, too idle, or too selfish, legally to perform. Our proceedings became gradually encumbered with an intolerable load of fictions; and as a certain consequence of a departure from simplicity and intelligibleness, a door was opened to abuses and prevocations of a hundred kinds. There are two truths which should be thoroughly understood: first, that the connection between the end and the means ought to be made and preserved as close and demonstrable as possible. It is one of the main uses of reason, and is our main intellectual security against fallacies and fraud. Next, that in the contemporary adjustment of the machinery to its purpose, every successive generation must be left to be ruled and guided by its own circumstances and discretion. If the ancestral shoes, to which we have succeeded, pinch their present wearer, or are so near worn out as to let in the dirt, is our only alternative that of going lame or barefoot?

There are different shades of plausibility and absurdity, according to the subject to which the doctrine is applied, in the pretension that prior generations are entitled to block up the great highway of the law



against those who follow. The assumption is in its most unwarrantable form, when the dogmatical attempt is made, whether by sovereign or priest, to stop short the intelligence of man, or even to lay down, as it were, an immovable iron frame, on which, as on a rail-road, the human mind is to travel its weary round throughout futurity. The mind cannot be made to stand still; nor can the course of reason be forced into any orbit. Were its orbit even a circle, the point at which it culminates and declines cannot be so fixed, that the mere certificate of the opinions of any century must be conclusive on posterity. People living in the year 1831 have as much right to think for themselves (act for themselves they must) as those of 1688 or 1546. Thus far all, or nearly all, are agreed. In nothing which decree or statute ever undertook to fix, is so little to be gained, and so heavy a price to be paid for that little, as by putting drags, and blinkers, and conditions, on the independent use of the understanding. Franchises, and privileges, and the arbitrary orders in society, come next. It is a hundred to one, but that the original intention of any specific forms, in the course of time, is answered and expired. Distinctions of this sort can seldom, in this event, long continue to be simply indifferent and harmless. On the supposition that the compliment and confidence implied in them, when they were conferred, have turned into a scandal and suspicion, and that the public interest may be better served by their total abolition, or by putting them in some other shape, these are things the principle of which was necessarily temporary at their origin, and which have the further important and delightful advantage, of being revocable without any serious sacrifice of the interests of the individuals concerned.

It is far different with property. All the incalculable benefits which arise from this institution depend, in a great measure, on the permanence of its rules. If credit is once shaken in respect of property, the manufacturer pays off his workmen — the farmer stops his plough — and a whole kingdom in a few weeks will fall into the condition of a farm, the lease of which is not expected to be renewed. Hardly any possible object can indemnify the public for this mischief. The effect of the precedent may cow the confidence, and paralyze the arm of a people for ages. In no other case is the violence done to the arrangements and expectations of the persons, when the subject previously, and perhaps exclusively, appropriated to their enjoyments, is resumed and brought again into common, so immediate and intense. These remarks apply to private property only. In a well regulated community, the great mass of its property will be so parcelled out into private hands. The rest will belong to the public at large in the person of its government; or will be vested in *public* bodies (as distinguished from *private* partnerships), merely in right of their artificial capacity. There is not raised in this latter course a shadow of claim on the behoof of the individual members of these bodies in their own persons. The whole belongs to this ideal and legal fiction (for a corporation is by its nature incorporeal), which the law, by its Promethean power, constructed, animated, and endowed with certain rights solely for the *public benefit*. It is admitted that these rights, although of necessity exercised by means of individuals, exist in the corporation, and in its corporate capacity only. Now, that any *private benefit* could be prospectively intended for the corporation, which, nevertheless, is clothed with the entirety of the external legal right, will be maintained by nobody who comprehends what the law understands by a corporation, who must not



be also ready to settle a pension on a ghost, or to restore the usage of setting out a cream-bowl for the fairies. This description of property, as it arose, must by its nature continue to be coupled with a trust. The trust is often more or less precise. But the ownership is universally understood and felt to stand on the principle of a trust of a much higher, and more immediate, and more positive nature, than that which attends on private ownership. By the law of England, a public body of this sort may consist of one or more individuals. The property, of which it is the corporate proprietor, has in almost all cases, where the trust was only an implied one, been allowed, by the general understanding of society, to take the double nature of a private interest and a public trust. On a very early occasion, and with great legal authority in behalf of our legal positions, we undertake to show up the abuse which the law has committed on this part of the case, and the still greater abuses which have grown up into general practice, often in ignorance that it is an abuse at all, in consequence of long legal impunity. Upon any reformation of these abuses, so much of the property as has become in opinion a private interest, should be always kept sacred for the use of its liferenters. That in which the trust has been recognized may be withdrawn at any time, or vested in new trustees, and its object partially modified, or totally extinguished. If the distinction between the two cannot be safely traced, it will be generally the most prudent course to leave the trust and the interest bound up together for the life of those already in possession. The precaution of not filling up the vacancies will in time restore society, without the hardship and the odium of having injured individuals, to its full authority over both.

No person can admit more fully than ourselves the proposition, that the inviolability of property is the great and indispensable security for human happiness and civilization. At the same time, this proposition is evidently true of such things only as cannot be so well enjoyed in common. In these alone, therefore, does the moral right of exclusive property exist. Thus, a claim to the dominion of the sea, in exclusion of the right of navigation to the vessels of other countries, is in principle indefensible. *A fortiori* is a moral foundation wanting in behalf of the institution of property in all cases, where the general balance of enjoyment and of misery, arising out of the creation of the right, must, from the nature of things, be on the melancholy side. Slavery, for instance, is in this predicament, whether established by the insolence of Greek philosophy, as the law of nature against all barbarians, or created by act of parliament as the law of the land,—or rather the law of a certain number of enumerated sugar islands against a certain number of human beings of African descent.

The suggestion originally urged in France by St. Simon on the Regent, and the arguments to the same effect renewed by Jefferson in America, against the existence of a right in one generation to impose upon society a burden, by way of tax, beyond the probable duration of the life of that very generation, are, according to our view of the rights of property under society, quite untenable in the sweeping form in which they are stated. If a distinction is to be taken between two sorts of property, which are both equally entitled to that character, the title of the public creditor, expressly guaranteed by a revenue act, for a direct consideration actually advanced to the community, stands upon a more open and recent contract than the title by which the landholder



possesses his estate, coming to him unsupported by any public claim of this kind, but trusting for its safety to the ordinary sanction of the law. The immediate policy of a legislative confiscation of the funds over a confiscation of lands, rests entirely on its comparative facility. Burke, in case a competition should arise between their claims, decides in favour of the property of the citizen against the demands of the creditor of the state. This he does on the supposition, that ‘the public can pledge nothing but the public estate; and that it can have no public estate but in what it derives from a just and proportioned imposition upon the citizens at large.’—(*Reflections*.) The notion of a limit to impositions, would seem to imply that the fundholder has under his bargain no right to even a property-tax as part of his security, much less to Mr. Ricardo’s plan of a division. The other supposition, by which Burke apparently confines the right of mortgaging the public revenue (not to each generation—for on that question he does not enter—but) to constitutional governments, is rather dangerous doctrine for the engagements of loan-contractors with continental kings. He calls it a dangerous power, ‘the distinctive mark of a boundless despotism.’ The treasure of the nation, of all things, ‘has been the least allowed to the prerogative of any king in Europe.’ The pecuniary engagements of the old government of France are described as being the very acts which were of all others ‘of the most ambiguous legality.’ The possessor of stock is the purchaser of a tax to that extent, according to the terms of the original security. The security depends on the source out of which the loan act undertook to raise this portion of the revenue. If it was stipulated that a lien should be given on the property of the country, nothing can be more just. The tax-holder, by such an engagement, becomes a tenant in common with the holders of all the real and personal property in the country, for whose defence his money has been expended. The right to impose a property tax, either towards the annual expenses of government, or in defrayal of a debt incurred on this specific understanding, is part of the universal right vested in society. In the same manner as each possessor may dispose of his own property, so the majority, or whatever numerical proportion is intrusted with the supreme power of the state, may dispose, in whole or in part, of the property of all. If the tax is not raised solely from property, but principally from labour, although the labour of a man who has nothing else to give may be reasonably made to pay for the protection which he is in the course of actually receiving, yet the justice of allowing a preceding generation to pledge, in behalf of its contemporary policy, the labour of an individual who is yet unborn, seems a much more doubtful proposition. The property which in 1800 might have been sold outright by the Parliament of that year, might of course be also mortgaged. If only mortgaged, it descends with its burden. The next heir, if born in 1801, has no ground of complaint. He can have no right to any property at all, rather than his neighbour, except under the law. If he does not like it on the condition with which the law has charged it (that of certain payments to the public mortgagee), he may give it up. On the other hand, let us suppose the tax imposed in 1800 to have been imposed on consumable articles—and so far, to a considerable extent, imposed on labour. A man born the year afterwards cannot grumble because he finds that his ancestors have not transmitted him some sort of property or other; property being a thing which, it is evident, from



the nature of it, many must go without. But would his remonstrance against their course of proceeding be equally unreasonable, in case his ancestors had left untouched the natural fund for the payment of their debts — that is, their property, and had had recourse, instead of it, to his contingent labour. He is thus brought into the world a good deal worse than nothing. He finds himself, in his own bodily and intellectual self, charged with the obligation of working off their incumbrances by a tax, which, although imposed nominally on articles of subsistence, is actually imposed as much on his own person, sinews, and drudgery, as a poll tax. We are far, nevertheless, from questioning the right of indirect taxation for the payment of the public creditor, when, and to the extent that, it is necessary. We only submit that this fund is so much more one of a secondary than of a primary nature, that, in marshalling the assets of the nation for this purpose, property ought to be had recourse to in the first instance. It seems to us monstrous that it should be excepted upon principle. It is favour enough not to insist on evidence, that the resources of this natural expedient are first exhausted — or at least that the sources of public wealth are beginning to suffer in apprehension from the extent to which the immediate drain on property is carried — before the payment of the public debt is attempted to be raised on labour. The impolicy of this mode is only the greater, if the appearance of hardship contained in it is altogether fallacious ; and if the whole expense of the machinery of indirect taxation should turn out to be ultimately thrown on the owners of property. This will be the fact, if rents and profits are only proportionately diminished by every charge thrown on the employment of productive labour.

So much ignorance is brought out from its hiding-places, even among educated persons, under the warmth and excitement of great national discussions, that for some time past we have been every day acquiring greater respect for the invisible elements of cohesion and improvement by which society is held together, or pushed forward in advance. Objections to innovation are in a constant course of infliction, and are laid on in a form much more worthy of the celestial empire of China, than becomes an enlightened European people. During the patient endurance of this discipline, we have, for the sake of some of our friends, and those not the least positive, thanked God that there was no window at our breasts. Our astonishment at finding them equally unacquainted with the first notions of civil and political jurisprudence, and of the infinite series of precedents in point, of which the history of mankind, and especially that of their own country, is composed, would have appeared any thing but civil. A cursory examination of a few main divisions will show the most careless reader what little authority there is for daily manifestations of extreme horror at the thought of the possible interference of the legislature with public or even private rights. This exposure consists, indeed, of little more than a detail of some of the most important changes in the law at different periods of society. Whether the change was originally in any instance introduced by custom, decisions, or enactment, is of no consequence ; for the validity of either mode equally assumes the ratification of that power, whatever it may be, which constitutes the supreme power in the state.

The distinction between interests in possession, vested, or contingent only, is of great weight in point of fact as well as law. The English



law in particular has made the most of the subtleties arising out of the latter considerations; and is in one sense rewarded by their having been made the subject of by far the ablest work which it possesses; one, indeed, of which the logical arrangement and refined analysis would be an ornament to any science. But the distinction is almost equally important in point of fact. This depends on the supposition (which may be assumed to be a truth), that the injury and alarm which society at large, as well as the individuals directly affected, would experience by an alteration of the law on any subject, must vary according as the right affected stands in one or other of the above degrees. Therefore it will be necessary to prove, in justification of any measure, according as it bears upon these respective cases — that the counterbalancing advantages rise in the same proportions. The application of these distinctions, however, can never arise with regard to corporations. The attribute of perpetuity maintains all their interests in perpetual possession. If society, therefore, was to be held to be restrained, it is restrained for ever. Fortunately, by the very definition of a corporation, every interest belonging to it is a trust. This presumption is merely the removal of a trustee. In the case of franchises, individuals may have an incipient and vested right, which yet does not come into possession till a future day — as infant sons of freemen. Here again, fortunately, although the distinctions are possible, they are not applicable; for a franchise is a trust. In all cases, whether of property or of trust, the rights of persons unborn may be properly looked upon as purely contingent.

These distinctions of possession, of vesting, and of contingency, being introduced where they are permitted from motives of policy and expectation, cannot be extended to subjects in which the general policy of them is neither applicable nor recognised, — and where, consequently, unfounded personal expectations are entitled to no respect. Nevertheless, according to much that has been lately talked and written, the law of England must be called the vested inheritance of every Englishman; and the humblest individual may be told that he is entitled to insist that the law in general, — much more is any one, standing in certain relations, or belonging to a certain class, entitled to insist that the particular laws connected with his condition, prospects, and expectations — shall never be violated by legislative encroachments. It is absurd to extend these precautionary distinctions to the public, and public bodies. Individuals may want protection by a rule against the spite or avarice of personality in legislation. But the community itself, and the great classes which compose it, have nothing to gain by tying their own hands.

We will begin with private rights. The principles out of which the relations of private life arise, and on which the institution of property depends, are so simple and so necessary, as the very nucleus and foundation of society, that in respect of them, the circumstances are not very likely to take place, which can alone call for, and therefore will alone justify, interference. For instance, the law upon the three great domestic conditions which form the sacred circle of a family and a home — husband and wife, parent and child, master and servant — must have been comparatively fixed at an early stage of civilization. There seems, at first sight, little reason why the law concerning them should not continue the same from the time of the patriarchs to the present day; and there is great reason why the legis-



lator should be seen and felt as little as possible in the inside of one's house, meddling with what nature and usage will be probably disposing of at least as beneficially as himself. However, not only does the law of these relations vary from country to country; but what alone is important for our present purpose, in the same country from age to age. Let any one trace the progressive history of the English law on this interesting chapter of family arrangements, in Mr. Reeve's work, and continue it downwards, and he will find variations enough. As regards matrimony itself, according to the mutable considerations of contemporary policy, the marriage acts have changed backwards and forwards (in the reign of Henry VIII., George II., and George IV.,) all the regulations on which the validity of a marriage depends. Even as to the right of forming this connection—the nursery of our race—a great class of the community, the clergy, were not allowed to marry till 2 and 3 Edward VI. The permission was taken away from them, and, what would be called their vested right, destroyed by Mary. Elizabeth reluctantly submitted to their marriage as a fact, but would never legitimate the practice by law. This innovation was accordingly left to be among the first acts of James. As to parents, the statute of James, and Charles, and William III., interposed between a Roman Catholic parent and the education of his children. The equitable legislation of the Chancellor has invented, in his encroaching court, a kindred law, by which the custody and presence of his children is taken from every father, who, in the opinion of the Chancellor for the time being, shall misconduct himself. As regards the great relation between those who have labour to dispose of, and those who want to purchase it, Parliament, in almost every reign, from the 23 Edward III. to 5 Elizabeth and 54 George III., has varied at its pleasure the rights and obligations between the master on one side, and labourers, artificers, and apprentices on the other. These changes were interposed according to the fluctuating views which police, trade, humanity, or other objects might suggest on the occasion.

According to Blackstone, the right of property is merely a civil right. One or more of his editors is shocked, and classes it under the law of nature. It is a very pretty quarrel, and one of those which explanation, conducted on their own principles, certainly will not spoil. If human happiness is promoted by the institution of property, it is a natural right. Moreover, wherever it is clear that any particular system of property will be more generally advantageous than another, it is also a natural right that such a system should be adopted. Independent of this theory or any other, the existence of property in some shape or other is contemporaneous with our earliest evidence of the existence of society. The law of nature appears to be thus far coincident with the law of the land, even though that land should be the banks of the Amazon. But when accident has determined, or society has become sufficiently reflecting to choose between, different systems of property, a difference between these laws may be imagined to commence. Now, we know of no test but that which we have suggested, by which a particular system of property, or any other claim whatever, can be made out to be a part of the law of nature. It is the duty of a government, in case the law of the land does not coincide with this test, to promote their coincidence, as fast and as far as possible. Meanwhile, the alternative of treating the law of the land as null and void, in consequence of this contradiction; or, on



the other hand, of considering it as final and unalterable, because it happens to be the law at any given hour, or to have been the law from time whereof tradition runneth not to the contrary, are tenets equally absurd. In point of fact, this is an absurdity, which no nation, least of all that of England, has committed. We began with every variety of property, as far back as we can trace it, and, consistent in our inconsistency, we have passed through every variety of change.

It is the principle only of property which is necessarily constant and universal. But it may, and does, assume a hundred forms. A tribe of savages, who have not advanced beyond the notion of common occupancy among themselves, yet feel and defend the right of property in their hunting-grounds to the exclusion of their neighbours. The begging friars, who disputed whether, having made a vow of poverty, they could call the morsel of bread, after it was in their mouths, their own, had never a doubt of the title of their fraternity to the exclusive possession of their monastery against all rival orders. The institution of property, in its rudest state, is that of common occupancy. Ecclesiastical policy and benevolent fanaticism have sought to humanize the experiment in a civilized community. The one consists in free quarters; take that take can. The other prides itself on its strict Spartan regulations; like the Jesuit missions in Paraguay, or one of Mr. Owen's Parallelograms. The first has never existed but by name, even among the veriest collection of barbarians, in any thing on which the possessor had invested his personal labour. It ceases to exist in animals or in land, the moment that, through the means of pasturage or of cultivation, the forethought or industry of individuals begins to look for their subsistence to something beyond wild beasts or shellfish, or the spontaneous fruits of neglected and plundered nature. We wish to speak, with all the moral respect we feel, of those who, in occupancy in common, see 'the pattern of that just equality, to be perhaps hereafter.' In the accomplishment of a noble object, they unfortunately have fallen on the most mistaken and fatal means. Their system professes to abolish the selfish and jealous passions which private property is supposed to foster, and to combine the sort of equality which is so falsely imagined to be part of a state of nature, with the regularity and order of a constituted society. It is a confusion of mere instinct with the thousand elements of our mysterious nature, to think that not only a step, but the step, is gained in behalf of our perfectibility, by transferring to man the policy of an ant-hill or a bee-hive. This error is the same in principle, and differs only in the subject to which it is applied, with that of the visionaries of Greece; in whose Utopia wives and children were made public property, by way of preventing the weakness and abuse of conjugal or paternal feelings. Among the most successful modifications of this experiment, appear to be the village communities which have endured for centuries, and the family partnerships which occasionally pass on undivided for one or two generations, in Hindostan. The highest specimen of the possibilities of our race is not, however, that in which man, under the yoke of Castes, approaches nearest to a machine. With the self-will of the European character, nothing but religious or political enthusiasm could make the partners passive, even for a time, under such a system. Enthusiasm is too partial and temporary an instrument to rely on. In cases to which it does not extend, or when it has become extinct, we are thrown back on the ordinary principles of human nature. It will be wiser, therefore, never to lose



sight of them, or stir beyond them, in our speculations upon an institution which naturally comprehends all descriptions of people, and all times.

The full benefit of property will be most effectually derived from it, even on behalf of those to whom no share personally falls in its original distribution, by placing it immediately and entirely in the ownership and management of individuals. The public interest is, on the whole, best consulted by giving it up into their hands, discharged of any specific trust. No general rules have fewer exceptions than these:—First, that the body of the people, who have only their labour to depend on, are quite as much interested in the establishment, protection, and increase of that fund, out of which labour is to be remunerated, as the direct possessors of the fund. Next, that the owners of private property ought to be trusted with the sole management and employment of it, under the conviction that society will lose less by this arrangement than by constant superintendence and interference. It is impossible for a rich man to spend a single shilling (however selfishly and disgracefully, as far as concerns his own character and objects), but that the public has the benefit of the expenditure. The fine lady, whose heart is set on a lace veil, will probably assist, by its purchase, the poor mechanic on whom she has never bestowed a thought, as much as if she had given him in charity the amount which his employer is thus enabled to pay to him in wages. These latent and disguised advantages constitute the sanctity and the trust of private property, in its most absolute and hardened form. Because Providence has so framed and placed us, that these advantages are best secured, and the very object of the trust is most successfully attained, by freeing every proprietor from a legal responsibility concerning the mode in which he may use his property, it is not to be inferred that thereby any doubts can possibly be thrown on the moral existence of the trust. If it is the interest of society to seem to forget that it is a trust, it is the political duty of every individual to learn and to remember it. His possession is any thing but an adverse one. Whether the possessor dates from the Norman conquest, or from the last loan, the right cannot be lost on the part of the public (since it is one of those rights, which is also an obligation, as all important rights really are,) of confirming, or of altering, the possession on public grounds. The only limit which the representative of private parties may challenge as a condition on their behalf, is this: Their estates, regarded singly, are private property. It is only when contemplated collectively, legislated upon collectively, that they are a trust, and amenable to society. All this is implied in every exercise of Parliamentary taxation, and in the right to levy sixpence in the pound in a parish cess.

Our ancestors felt these truths so strongly, that, by a generous and philosophical comment, they converted the terrible outline and incidents of the feudal system into a popular constitution. ‘My lords,’ said Holborne, in that noblest of all legal arguments, his defence of Hampden, in the case of ship money, ‘whatsoever estate is in the king ‘in the politic capacity, is in him as *rex*, and not in him in his natural ‘capacity; and what is in him so, is for the benefit of the kingdom. ‘That is the reason that all land is held immediately or mediately of ‘the king. So the king, when all was in him, disposed of some for ‘the service of the kingdom. Hence arose tenures originally.’ In regulating private property, the successive legislative authorities in



England have often taken narrow views of their object, and have made sufficiently absurd and contradictory provisions for its execution. But, instead of foregoing or gainsaying, by any self-denying declarations, the right of exercising their power, it is from this exercise of their power, according to fluctuations of supposed convenience and policy, that legal history has abounded, at different times and places, with every anomaly; and that it has been subsequently and slowly more and more brought towards something like uniformity.

The legal historian in the case of property generally, and especially in respect to feudal benefices, will have to trace the progress from estates for life only to the period when the title by inheritance was acknowledged. Afterwards, by a still greater innovation, the power of testamentary disposition, in other words, disherison, was introduced with all its shadowy distinctions. Under this authority were passed the statutes of mortmain and of charitable uses, the statute *de donis* and of fines — which respectively tie up or enlarge the power of the owner — and in the last case, cut off rights which the previous law had given. There are the diversities of tenure, with their accompaniments — the various rules of descent; that of the eldest son, that of the youngest son; that of partibility among all; that of partibility among males only. There are the disgavelling statutes, to the prejudice of younger children. There is the statute of wills, to the prejudice of the elders, or of all. There is the distinction, at present so unreasonable, between real and personal estate. Then there is the gradual alteration of the rights of the widow and children, in what the old common law (as it were in sneer of the primogeniture of the feudal landholder) called their *reasonable part*; their title, nevertheless, to which reasonable part, after having been pertinaciously maintained in the principality of Wales, and in the customs of York and London, has been positively barred by modern statutes.

In the disguise of corn laws we artificially raise the fortune of a landholder at the public cost; and when he is dead we expressly protect his acres against his debts. Formerly, under the pretence of religious scruples, now under the pretence of politics or morals, we lower the profits of the moneyholders for the sake of others. By no possible means can the legislature exercise a greater power over property than by its regulations concerning money. The principle would be the same if our circulation was carried on in copper ingots, and neither the nation nor an individual in it owed a shilling. But our immense system of manufacturing wealth and artificial credit, and our load of public and private debts, transmitted from generation to generation as charges on our property, make it impossible that the slightest legislative movement in the value of money should not vibrate through the kingdom. No limit can be put to the injury which property may have sustained from restraints in the shape of usury laws, or from the fearful fluctuations under which the value of money has been made to sink or rise from the express provisions of the law. The loss and gain to individuals arising on the debased coinage of former times, and on its subsequent restoration, were child's play compared to the effect of our currency legislation since 1798. It is inconsistent with our theory of the lawful power of government, to make any question on the authority of Parliament over this subject. On the



supposition that, at each period, the opposite enactments were called for by a pressure of circumstances approaching to necessity, it was the duty of government to carry them into effect. Different opinions may be entertained on the prudence of both parts of our policy in this battle between paper and gold, as well as on the extent of the consequences of the respective measures. But they were passed entirely on general grounds of public service; and the great alteration which they must work on the relative classes of property distributed over the country, could not but be positively, although imperfectly, foreseen;—at least foreseen, so far as to render it a singular objection on the part of Sir Robert Peel against a great public measure, that it may be, somehow or other, collaterally a precedent for trenching upon property. The objection is not the less remarkable when nobody is a shilling richer or poorer in consequence of the latter measure so objected to. The inconsistency is at its height when it is observed, that all the rights which a Reform Bill can give on one hand, or take away on the other, are political rights only—of the same nature as those which were conferred and withdrawn on the passing the act for Roman Catholic emancipation by Sir Robert Peel himself. The policy or impolicy of that question was long enough debated; but the notion of confounding a political franchise with property was left to be invented by the factions of to-day.

After what we have written, we begin to fear lest we should be thought to have mistated the tender part of our case; and that our readers may doubt—not the just authority of a community to recast its political and civil institutions—but the justness of any distinction, either in reason or precedent, in favour of a more timid caution, and scrupulous demeanour towards private rights. It may be said, that it was no more unjust to make Naboth surrender his vineyard even at its market value, than it would have been to deprive him of his right of electing or being elected to the Sanhedrim. True; if both were acts of personal violence directed against a single individual on private grounds. We admit also, if the successful accomplishment of a great public object requires that the private property of one man, and the political privileges of another, should be given up, that both must be sacrificed alike. The suburbs of a besieged town are razed for its defence. Canals, rail-roads, and new streets have made us acquainted with the necessities of peace. The question of compensation in these cases of property admits the right of interference: that this question is not and cannot decently be raised in cases of disfranchisement, will show the distinction between the two. Unless the public had a paramount right over property, the question of compensation could not arise. There is no condition of this sort more than of confiscation, directly expressed on the part of society in a man's title-deeds. But political privileges, where the necessity of their being abdicated exists, do not admit of being bought up; they are not representable by money: nor is it easy to say in what other way, were it worth while to enter on the question in a matter of simple trust, they could be replaced by any appropriate favour. As to any notion of pecuniary compensation, it is almost a misdemeanour to talk of compensation, on account of the transfer into other hands of a political trust, out of which, in case either patron or voter could be proved to have derived any pecuniary profit, they are liable to fine and imprisonment as public

offenders. The feeling that a wide distinction exists between the cases of private property and of trust, is not a prejudice. The distinction is sometimes confused from the supposed combination, in the same person, of what is called an interest coupled with a trust. What the distinction is, will appear from our observations in an earlier page. It is probable that a former generation have settled the principle and detail of private rights on grounds of such universal application, as to leave their successors a certain balance of disadvantages, and an uncertain balance of advantage, upon any change. In case of public rights, this probability gradually diminishes and disappears. It is this comparison which has caused the whole difference in our arrangements, opinions, and language, on the two subjects. The public interest may accordingly, in one case, be safely left to be implied, and to be traced and derived through the private, until a personal independent claim (almost to the exclusion of the opinion or authority of the public) is not merely suffered, but encouraged, to grow up. It can be occasionally only that thinking persons are required to rub off the sacred rust, and point out to the ignorant owner Cæsar's image and superscription. In the other case, except in brutal or stationary communities, and in places where divine right, legitimacy, and prescription, are set up as pretensions, which are titles *per se* (to be obeyed and not to be investigated), it is evident that the whole artificial machinery by which a government is carried on is so liable to be disordered from its extent and complication, and to become inadequate to its office, from the new interests, opinions, and sentiments which may be forming, swelling, and bursting out from under it, that it would be madness to contemplate a similar fixity in institutions.

If society is to be progressive, appropriate changes in every department of its administration can alone bring the government into harmony with the governed. In order to conciliate this conformity, it is necessary that the public interest should constitute the immediate, and not the mediate, consideration in this class of questions, and that both in word and deed this public responsibility should be always kept in sight. There may be, with ill-informed people, a good deal of indistinctness and misunderstanding about the precise nature of the trusts with which different institutions and persons are charged, by reason of their public character. But in nothing is the feeling surer, and the language more explicit, than in the distinction universally recognised between the immunities of private life and the liabilities of those who place themselves in, or accept of, public trusts. For instance, wherever a corporation, sole or aggregate, exists, there is an inseparable corresponding impression, that whatever belongs to the corporation, whether in franchise or in property, can only belong to it on public grounds. This is the one and only conceivable object of creating the corporate, and of adding it on to the personal, capacity. Legal refinements, and we, scruple not to say, most indefensible and suspicious decisions, have spread a very discreditable obscurity over much of this part of our law. But the lawyers have not mystified the people. It is probably too late for courts of justice, in most of the instances, to relieve these institutions from the misconstructions by which the natural object of corporate institutions is now so frequently defeated. Parliament is in every way as much better qualified, as it is imperatively summoned, to the task. Every day's language



bears testimony that the public is well aware, not only that in these cases the power has been expressly reserved, but that proper occasions for putting the power in execution must arise. Public bodies and relations were constituted for public purposes. Any franchises with which they have been invested, and any property which the bounty of individuals has been permitted to pass on in this channel from age to age, under the restraints of a perpetual entail in mortmain, which are an exception to the general policy of the law, are impressed with the same public character. There is no mask of false pretences to remove in this instance; no expectation to be disappointed; no supposed adverse title to be set up. If this were not so, society would be obliged to bribe its own trustees into connivance; or violence must be called in, in order to accomplish any political reformation, where the parties were not disposed voluntarily to come forward and consent to be reformed. The public can supply the want of that vigilance, by which private interests are more than sufficiently secure, only by reserving a greater latitude of construction and process for its protection. These are the known terms and tenure of its offices. Thus, even judicially, the offences subject to impeachment are left at large. So the two Houses have chalked out for themselves, on the trial of corrupt boroughs, a course of numerical proportion, unheard of in instances of private right, and in courts of justice; and have taken very little trouble in the arrangement of an indemnity or escape for the few righteous whose Gomorrah \* they occasionally took a fancy to destroy. The civil law ordains, 'that, for the misbehaviour of a *body corporate, the directors only* shall be answerable in their personal capacities.' This rule seems, in point of strict judicial principle, to be deduced more logically from the definition of a corporation than the doctrine of the English and Scotch courts, by which the offences of members of a corporation, in their individual capacity, are distinguished from that species of corporate negligence, or abuse of franchise, by which the corporation is dissolved, as by a breach of the implied condition of its existence. Our doctrine, though rather irreconcilable with the definition of an ideal fiction like a corporation, is an important admission of the origin of the title, and the continuance of the trust. Nothing is said in respect of this disfranchising

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\* The pitiful hypocrisy with which Parliament has so long nationalized the Lacedæmonian practice of encouraging a crime by the most effectual of all modes — participation, and only punishing it when the parties bungled so as to be found out, is a modern innovation. According to late precedents, Westbury would not have been in existence, so as to have had the honour of sheltering Sir Robert Peel on his flight from Oxford. Its prior reputation rested on the fact of having furnished the historians of Parliamentary corruption with the earliest recorded case of direct bribery. Making all allowances for the change in the value of money, the sum of 4*l.* was small enough. The offence was brought so completely home, that the mayor was fined and imprisoned, and a fine of 20*l.* was assessed on the corporation for 'their said lewd and slanderous attempt.' Lord Tenterden would find authority in this precedent for the invidious power which he was so ready to confer upon the House of Commons; but hardly sufficient authority; since Lord Mansfield confidently observed, when the case was quoted before him, that Lord Coke must have substituted the House of Commons for the Star-Chamber, because there could be no fine set by the House of Commons.

quality, to distinguish the acts of an individual constituting a corporation sole, from the acts of a corporation aggregate. This might be rather alarming doctrine if it were applied to an unfortunate see — for example, Ely. According to the distinction adopted by our law, it would seem, that certain specific derelictions or violations of duty have been pronounced, beforehand, to so far defeat the purposes of the institution, as to compromise and involve the entire corporation, and thereby create a forfeiture, which a court of justice might enforce. But it must have been also foreseen, when such fictitious creations as corporations were admitted within the pale of the common law, that the objects of their creation might terminate from many other causes besides those laches or misuses on which a judge would feel bound to act, or which were capable of legal proof. The common law, therefore, of both countries, has, in the chapter of corporations, enumerated, among the regular methods by which they may be dissolved, that of an act of parliament, when the ‘powers or privileges of a corporation’ are deemed fit to be recalled.’ An express notice of this sort is not introduced for nothing. The student will fully feel the ground of the diversity, when he remarks, that the omnipotence of Parliament is never mentioned as being one of the several manners by which a complete title to ordinary property, whether real or personal, can be acquired or lost.

We have said enough, and more than enough, on the principle. Nothing has more retarded the formation of just opinions on the powers and duties of government, than the use made of occasional facts, still more, of different hypotheses. Its freedom of action has been supposed to be restrained by contract ; — whether by the fiction of an original contract ; or by the express terms of a union of states (either totally or partially independent), as at the American Union ; or at the successive Unions of England with Wales, Scotland, and Ireland. The same paralyzing consequences have been derived from a *charte octroyee* ; from prerogatives which were unalienable by their nature ; from fundamental laws and declarations of rights, &c., which were never to be repealed. Under these names, governments and writers have vainly sought to bind a firmer chain of obligation on the conscience of succeeding legislatures than is to be obtained from considerations of the public good. All our countrymen would admit, as far as other countries are concerned — Spain and Portugal for instance — the absurdity and impolicy of interposing theoretical obstacles of this nature in the way of practical improvement. But many of the arguments and incidental objections which are constantly insisted on when any question of domestic reformation is suggested, evidently presuppose that there is some peculiarity in the English constitution which makes it an exception. The prerogatives of an absolute monarchy may be broken down ; but when any particular political interests or powers have been communicated to a portion of the people, it seems that no new aspirants are to be let into the partnership, or any new arrangement proposed, which may tend to disturb existing, and, as they are called, *vested* rights. Now, as far as precedent is concerned, by far the most distinctive feature in the English constitution is its progressive nature. Its great original merit, or good fortune, lay in the division of the legislative power, by which the people, acting through the press and hustings up to the House of



Commons, gradually grew strong enough to force a way for public opinion ; whilst something was gained by way of additional deliberation, and a great deal by way of security for internal tranquillity, and the permanence of our established forms of government, by requiring the concurrence of the three separate members of the body politic to any legislative measure. It is difficult to provide impulse enough to make certain of improvements, together with controul enough to prevent violence. The form and substance of our political organization so far combined both principles, that we have been saved from the evils of inaction and decay on one side ; and, on the other, from the fearful necessity of attempting too much at once. Every step of our progress has been taken in conformity with our characteristic adherence to the antient foundations from which our system had arisen ; and with our love of those antient organs, through which the popular voice had been accustomed to direct, animate, and defend us. The royal authority is not gone in England, although the exercise of the constitutional negative on the part of the crown has been long cautiously suspended. The Lords may preserve for ages, and to the infinite advantage of their country, as well as their own honour, their constitutional authority, provided it is discreetly, temperately, and honestly interposed. Wielded as a weapon in the face of the people, it will be broken to pieces, and the very fragments of it will not be to be found.

Burke's direct argument against Reform rested entirely on the advantages of a prescriptive government. Comparing the present measure with the former alterations which our ancestors at different periods adopted, we cannot comprehend what there is in the nature or degree of its provisions which should prevent our government from still deserving the title which Burke then attributed to it, notwithstanding its previous changes. The negative arguments advanced by him consisted of three points. With the first we perfectly agree,—that a people have no abstract right to any certain form of government or representation. No antiquarian even would be so superstitious as to hold that Spain and Turkey were bound to despotism by the indissoluble links of prescription. On the other hand, no notionalist, one should think, can be so practically insane, as to see an abstract right or wrong in any particular combination of political powers. Happiness is at the bottom of all rights—especially of political ones. It consists so much in feelings and opinions, that men must be left mainly to be happy in their own way, however absurd that way may appear to us to be. This is not less true in politics and in religion, than in private life. We may wonder at their taste ; but external authority is no more justified in depriving the Portuguese of their political beatitude in obedience to the will of Miguel,—or the monk of the religious satisfaction which he experiences in a scourge or a hair shirt,—than it would be in prohibiting, by proclamation, dissipated men and frivolous women from those elegant drudgeries by which the very amusements of fashion are so frequently perverted into a vexation and a fatigue. There can be no doubt, that it would be as absurd, in their respective moral and intellectual conditions, to attempt to prove the right to, or force the establishment of, a republic on the Spanish peasantry, as it would be to take the same course in behalf of despotism with a New Englander. Whatever Solon might think, there is



no metaphysical best in laws and institutions. Those are best which are best adapted to a people. Therefore, if best to-day, whether they will continue to be best to-morrow depends on the prior question, whether the wants and sentiments of the people continue to be the same.

Burke's two other objections depend altogether on degree, and circumstance, and time. He denied, first, the expediency of Reform; next, that there was any popular wish upon the subject. Every man in England is now so far agreed on the expediency of some Reform, that this head of objection is reduced to a question of degree. As to the popular will, the great apprehension which is felt is, not that it will not carry us forward on its wave at least as high as the proposed standard, but lest it should hurry us far beyond it. In respect of the modern proposition, that Parliament has no moral right over the whole frame of the government, and over every anomaly of franchise which either accident, or usurpation, or misdecision may have created in any corner of the kingdom, Burke was too accomplished an historian, and too philosophical a statesman, ever to let it pass his lips, when they were foaming and fulminating with every sort of scorn against revolutionary opinions.

The feudal system became early the common law of Europe. Few subjects of comparison are full of deeper curiosity and interest than the causes out of which arose the remarkable contrast between the fortune of constitutional history in England and in every other country. This is partly to be accounted for by a greater origin, a difference in our political classification of the three orders or estates of which feudal society was understood to consist, than has been commonly borne in mind; next, by the spirit, necessities, and occasions which led betimes to the breaking down of the prejudices of separate interests and hostile feelings in the great classes of the English community. The very irregularities of our political system, which have since led to so much mystification and corruption, had at one period this good effect. There were distinctions, indeed, but it was made almost impossible to understand them, and, therefore, to presume on them; for it was evident that they were the result of accident, and stood on no principle whatever. Our arrangements seem, on the whole, to have been as fortunate a combination as possible; considering the disjointed and imperfect capabilities of a country where the want of roads and of a press must have impeded the intercourse of men, and even of minds. They left us the vigour of local institutions, the encouragement and control of juxta-position, in the rival examples of neighbouring towns and counties, together with an efficient amalgamation on those important occasions, when the different elements were not only from time to time brought into each other's presence, but mixed up together in the performance of a common legislative duty on equally independent terms. There is another consideration, scarcely less important, and the principal one with which we are concerned at present. This is the advantage which we have obtained from occasions, in themselves frequently disastrous, and at the time discouraging enough, which have furnished the opportunity of proclaiming and enforcing the recognition of the right of Parliamentary regulation over every branch of the constitution. Disputed successions raised the point over and over again in the case of the title to the crown. The great dispute on religion was carried to a successful termination by an act which changed the



whole character of the House of Lords. The history of the House of Commons is one history of change. The arbitrary summons and omissions of boroughs, at the discretion or corruption of the sheriff, were succeeded by, and for a time contemporary with, the first creation by charter—that of Wenlock, (17 Edward IV.)—the last—that of Newark (29 Charles II.) By a strange retribution, the abuses of this last and most reluctantly submitted-to creation have contributed, as much as any other circumstance whatever, to swell to its present height the national sensation in favour of Reform.

First let us look at the motto of the *jus coronæ*. It is part of the great fundamental maxim, on which depends the right of succession to the throne of England, that ‘the right of inheritance therein may, from time to time, be changed or limited by act of Parliament.’ (1 Blackstone, 191.) To mention no other instances, this right was actually exercised in the person of Henry IV. (203), and in that of Henry VII. (205.) The question of the Roses, under which the strength of England was wasted during so many reigns, was not merely an opposition of contending forces, but of contending opinions. The title of the House of Lancaster was only less sacred than that of the House of Hanover inasmuch as they mixed it up too much with the mere *de facto* possession; instead of standing openly and solely on the popular doctrine of the supremacy of Parliament. To this, however, Richard III. had thought it advisable, in his case also, directly to appeal, as the best ‘known quieter of men’s minds.’ Twice in the reign of Henry VIII. was the succession varied by act of Parliament. And the remarkable remainder was introduced, which gave the crown to such persons as the king, by letters patent, or last will and testament, should limit and appoint. Was it the recollection of this strange testamentary power bestowed on her father, which seems to have puzzled the courtiers who stood round the death-bed of Elizabeth, and waited for her sign? The act of settlement, under which alone our gracious sovereign, William IV., sits now on the throne of England, would assuredly be precedent enough, did it stand alone. But it was passed in strict accordance with the practice of former times. This practice was not a mere fact grown up under or extorted by force of circumstances. The Parliamentary doctrine is embodied in principle by the express general enactments of 13 Elizabeth and 6 Anne. By both these statutes it is made high treason to deny that the kings of this realm, with the authority of Parliament, are not able to make laws and statutes to bind the crown and the descent thereof. How completely this text had, at an earlier period, sunk into the hearts and understandings of the people is evident by the celebrated distinction between the limits of spiritual and temporal authority in human hands, with which Sir T. More silenced Rich, the attorney-general, on his inquisitorial visit to him in the Tower. There is something more striking still in Lord Surrey’s spirited justification, on the field of Bosworth, of the Parliamentary allegiance which, in compliance with Richard the Third’s appeal, he had owed and paid to his fallen master.

It will be easily understood, that the passions or necessities of former times are likely to have transmitted to us fewer examples of a similar jurisdiction, directly exercised by Parliament, over the second branch of the legislature. But here, again, we have sufficient evidence of the exercise to show, that our ancestors had no idea of any difficulty or dis-



inction in one case more than the other. However fixed and uniform may be the view which a lawyer at the present day takes of nobility, its antiquarian annals contain a greater variety of changes than are traceable in any other part of our constitution. Nobility consisted, till the end of the reign of John, of all who held any quantity of land of the king. According to Domesday Book, and the Appendix to Brady, this list did not exceed seven hundred persons, of whom several held in soccage. These were the proprietors of the whole kingdom, except of that portion which was reserved to the king and to the church. From the last year of the reign of John to the 11th of Richard II., tenure was disregarded, and the *right* to a writ of summons had become confined to the antient or greater barons. The remonstrance (1225) shows that it was these alone, to omit any of whom from the writ was an abuse of the prerogative. The king summoned such additional members as, and on what terms, he chose. The present doctrine, that a general summons confers a peerage of inheritance, is only about as old as the reign of Elizabeth. It seems probable that a general writ previously gave no right beyond that actual Parliament. There are ninety-eight laymen who were summoned only once,—fifty others who were summoned two, three, or four times. The confusion is so great that there are nearly half a dozen different suggestions as to what it was in the writ of summons which determined whether the peerage was to be an inheritable one or for life,—also on the points, whether these occasional writs were not addressed to the intermediate order of bannerets, and whether the parties assisted merely (as the judges at present), without a suffrage.

The variations which took place in the number of the spiritual lords up to the Reformation were greater still. Out of one hundred and twenty-two abbots, and forty-one priors, occasionally sitting, it happened, either through mistake or from peculiar circumstances, that only twenty-five abbots and two priors were constantly summoned. The Abbot of Westminster sat in the first Parliament of Elizabeth; but never afterwards. The practice of creating peers by patent commenced 11 Richard II. The assent of Parliament is so generally expressed, in patents of peerage, down to the time of Henry VII., that West infers this assent to have been a necessary condition. Mr. Hallam mentions several instances of peers by statute. (*History of the Middle Ages*, iii. p. 193.) A return to the earlier practice of occasionally granting a seat in the House of Lords for life, or for a session, has been lately recommended. In fact our system of peerage has been totally changed by the novelty introduced at the Scotch and Irish Union, of peers who are not lords of Parliament. On these occasions, however, the antient custom has been restored, of lords of Parliament for life and for a session. No reason can be assigned why England might not partially adopt the practice. The temporal nobility amounted only to fifty-five in the reign of Henry VIII. They have been subsequently altered as much in their numbers as in the principle and stock out of which they are selected. Lord Delamere complained of this as a grievance under the Stuarts. (11 *State Trials*, 1358.) Lord Harcourt's administration, previous to the meeting of the Irish Parliament, made five earls, seven viscounts, and ten barons, in one day. In 1711, Queen Anne created a batch of twelve at once. (Lord Dartmouth's note, 6 Burnet, 87.) Nothing in politics is more usual or more dan-



gerous than the practice of looking at the evils on one side only. In jealousy of this prerogative, a bill was brought in, in the two following years of 1718 and 1719, for limiting the number of the Peerage. It was supported by the Ministers, and on one occasion passed the Lords. It was defended by Addison, and opposed by Walpole and Steele. Mr. Hallam states the arguments of both parties, and concludes by a very just summing up against it. (*2 Constitutional History*, p. 590.) De Lolme says, it would have destroyed the constitution. The consolidation of a self-existing body, independent both of king and people, must sooner or later have formed within its circle a spirit of oligarchical combination, which neither king nor people would in this event have had the means of counteracting. The misapplication of the fact, that the crown, after deliberate discussion in the case of Newark, was understood to have resigned the corresponding prerogative of adding to the number of the House of Commons, was but superficial authority for this by no means analogous proposition. But nobody at the time doubted the right of Parliament to discuss and to determine it either way as the public interest might require. Least of all can we doubt at the present crisis the wisdom of their decision.

If it is observed, on some of our references, that the right was often only varied, and not taken away, — that the parties were usually left undisturbed beyond the admission of others, the case of the East India Company and the interlopers, indeed the dispute on the infringement of the commonest patent, will show what the owners of an exclusive privilege think of this distinction. When the doctrine of vested rights is mooted in questions of this sort, we are not subtle enough to discriminate in principle between the injury which is done to the old monopoly, as often as it is violated by these mutations, additions, and restrictions, and the injury which is done to the right of possession when it is put an end to altogether. The difference is only a difference of degree — not of principle. On this sophistical pretence of injustice to existing rights, the most moderate reformer, who would raise the twelve electing aldermen into a baker's dozen, is as unjust as the radical who should insist upon universal suffrage. But precedents of disfranchisement, both in the case of a whole class, and that of an individual, are not wanting. Previous to the dissolution of the monasteries, the number of spiritual *always* exceeded the number of temporal lords in the Upper House. After the dissolution, the monastic dignitaries ceased to be summoned; and the number of lay creations has subjected the ecclesiastical minority to the fact (disadvantage it is none) of an increasing disproportion in every reign. We cannot conceive why the clergy more than the lawyers should be thought to have any reasonable or well-understood interest distinct from that of the people, or what public end is answered by their being personally represented in either House in a different way from what is the case with any other profession. Far, therefore, from calling, with Mr. Palgrave, for additional lords spiritual, we do not regret the change which has been thus effected in the internal constitution of the House of Lords. In case any one questions the degree of change which this incidental disfranchisement has worked, let him consider what would be the universal impression, expectation, and alarm, if an ecclesiastical majority were, at this moment, masters of the legislative wisdom of the Upper House of Parliament.



We will add Blackstone's comment on a singular case of personal destitution from a title, which has since become so deservedly, and hereditarily, dear to the English nation. In the reign of Edward IV., George Neville, Duke of Bedford, was degraded by Act of Parliament on account of his poverty. The preamble states, 'Forasmuch as oftentimes it is seen, that when any lord is called to high estate, and hath not convenient livelihood to support the same dignity, it induceth great poverty and indigence, and causes oftentimes great extortion, embracery, and maintenance to be had; to the great trouble of all such countries where such estate shall happen to be.' Blackstone says, — 'This is a singular instance, which serves, at the same time, by having happened, to show the power of Parliament; and, by having happened but once, to show how tender the Parliament hath been in exerting so high a power.' (1 *Comment.* 402.) This tenderness has cost us dear. The power ought never to have been allowed to sink into desuetude. We do not at all hold with Juvenal, that poverty, as such, has any thing ridiculous about it. But in the case of poor peers, unfortunately the ridiculousness is not all. Coke denies that the king had a prerogative censorship of this kind over the pecuniary independence of his hereditary counsellors. But the old doctrine seems never to have been overruled by a competent tribunal; and there is contemporary authority to the contrary, nearly as good as Coke's. Cruise (*On Dignities*, p. 80.) cites a case from Dugdale, of the second Lord Say and Sele, who grew necessitated to mortgage the greater part of his estate, so that afterwards the barony became extinct. Lord Burleigh (25th Eliz.) reported to Parliament the case of Lord Ogle, in the time of Edward VI., when it was resolved, that if a nobleman want possessions to maintain his estate, he cannot press the King, in justice, to grant him a writ to call him to Parliament. Whatever difference of opinion constitutional lawyers may indulge in, concerning the mode by which this interposition was most properly enforced, the debate and the precedents establish that the Constitution has left wisely open the question of a general superintendence and individual removal; even in that division of legislative authority, in respect of which the express recognition of responsibility, and of trust, has been kept in the background almost as studiously as in the case of private property itself.

Notwithstanding a great deal, both in appearance and in practice, that was frequently most irreconcilable with any theory of the kind, yet the sacred words of *Representative* and of *Commons*, and the solemn acknowledgments once in seven years, or oftener, from candidates on the hustings, kept up the continuous tradition of a trust in the mind of freeholder and freeman, as well as in that of the Parliament-man himself. This remained the fact during every metamorphosis which the Lower House has undergone. It was true at the time when the burgess received his two shillings, and rode up his five-and-thirty miles a-day to London or Acton Burnell, to negotiate with the sovereign for the reduction of the subsidy of his poor Commons from a tenth to a fifteenth; and when he protested against being drawn into, and delayed by, a consultation on public affairs, as being things quite beyond his capacity and concern. No less so, than when the successor of the said burgess is called on by a constituency of provincial statesmen to spend his thousands, and to pledge himself to the abolition of the



Polignac administration in France, and that of Negro slavery in the West Indies. One might as well reason from the Wittangemot to the Parliament of the nineteenth century, as from any similitude to it in the members who assembled under the writs of A.D. 1266, or during the two next centuries, whilst the King, by his sworn servant, the sheriff, was abusing the writ of summons into an instrument of fear or favour. The transfer to the body of the people of the power which wealth and intelligence naturally carry with them, and under which the legislative authority of the Commons has gradually advanced to its present height, almost began after the period when the formation, and flux, and assimilation of its component parts, which our antiquaries have so painfully investigated, had, in great measure, already stopped. But society was in movement. Evasion, therefore, and artifice overruled, and then became the law. The statute of Henry V., which required members to be inhabitants of the places for which they served, points out the closeness of the connection which was aimed at in those times. It was nothing more than what the physical state of the country, independent of all moral considerations, must have previously enforced. The Cornish members had Cornish names—Northern were of the north—Southern of the south. The names of the burgesses long continued to be more plebeian than those of the knights. In the reign of Henry VI., the election of a county member was set aside because he was not of gentle birth. When the act of Henry V., which was not repealed till 14th Geo. III., required the representatives to be inhabitants, it is easy to conceive what was the law at that time, in respect of *non-resident electors*. In case either the payment of Parliamentary wages had continued, or this statute of Henry V. had been enforced, Reform must have been long ago forced upon the small boroughs, from the nature of the case. On the other hand, in case a Parliamentary jealousy of the continuance on the part of the crown, of its prerogative of occasional disfranchisement, had not intervened, a sufficient counteraction against that most certain innovator—Time, was contained in that prerogative. A judicious use of it would have prevented the nuisance of rotten boroughs from accumulating through neglect to such a degree as to be only abateable by a much more sudden and sweeping measure than could have been then necessary, or is indeed in any case desirable, except as the least of two evils. The growth and fluctuation in the number of members during the intermediate reigns from 23d Edward I. down to Charles II. are in complete contradiction to our late pernicious system of absolute and perpetual uniformity. The principle of unprincipledness, by which the crown corrupted its use of this prerogative of addition, is sufficient proof that it could not be safely trusted with the converse prerogative of subtraction. But it by no means followed, that the beneficial power should be thrown away, on account of failure or mismanagement in its original machinery. These additions became mere additional numbers of the worst sort. As Elizabeth had jobb'd Cornwall, her paltry imitator tried his hand on Ireland. The answer which James made in 1613 to their remonstrance, exposes his vivacity and kingcraft with more than his usual absurdity. ‘What if I had created forty noblemen, and four hundred boroughs? The more the merrier—the fewer the better cheer.’

The practice of dropping towns through favouritism, or neglect, on



the part of the sheriff, or from the decay and indigence of the place, was not carried on into the reign of Henry VIII.; since which time it does not appear that any place has lost its right of representation. By a most unreasonable inconsistency the period when our stationary system commenced was the very period when a greater change was about to commence in the formation and distribution of the elements of social power than former ages had ever seen. There are some towns, such as Sheffield, Birmingham, and Leeds — corporate towns too — for whose earlier omission it is difficult to account. But the following return by the Sheriff of Lancashire (where the size of the parishes is of itself testimony of its rude and desert condition in former times) will sufficiently explain the unrepresented state in which this wonderful theatre of modern ingenuity and industry had been left. This return was repeated from the 23d Edward III., through the next five reigns. ‘There are no cities or boroughs within the county of Lancaster from which any citizens or burgesses ought or have been accustomed to come to Parliament, or are able, by reason of their poverty.’ There was no Manchester in those days. It is evident from this return, what those ancestors, with the defiance of whose wisdom we are reproached, would have thought of Sir Robert Peel, and the moderate Reformers, who voted last year against the extension of the franchise to Manchester, Birmingham, and Leeds.

From the time that Parliament took this prerogative upon itself, or in the cases where it carried on a contemporary jurisdiction, it cannot be surmised, even from silence, that any notion of vested rights disabled it, either from granting the franchise to places formerly unrepresented, or from taking it away either from places or persons whose exercise of it was deemed incompatible with the policy or convenience of the times. Enough, in both of these courses, has been done in every period of our history — formerly by prerogative as well as statute — subsequent to the Revolution, by statute only — to do away (as far precedents can shame men into fairness) with the possibility of all questions of *right* on these occasions, and to remit to us the discussion of policy only. From Edward I. to Henry IV., it seems that the right of election of the knights of the shire was in all freeholders. The 7th Henry IV. invaded this monopoly, by throwing it open to ‘suitors duly summoned, and *others*.’ The evil of ‘excessive numbers,’ recited in its preamble, brought in the celebrated enactment of 8th Henry VI., which disfranchised all people who had not a freehold to the value of (what was then no inconsiderable sum) forty shillings a year. The Unions, in the instance of both Scotland and Ireland, could be only carried into execution at the price of almost national disfranchisements. The mode in which, since 1663, the Convocation has sunk into the opportunity for a divine to make a ceremonial speech in Latin, and by which the right of ecclesiastical taxation is transferred to Parliament, whilst the clergy have been admitted to vote at elections in right of their glebes, are recent innovations which usage has sanctioned, and is sanctioning, as law. Yet all this, according to some people’s notions, must be a scramble of injustice. Whatever opinion the reader may entertain of the legal rights of a clergyman to sit in the House of Commons previous to 41st Geo. III. — and our opinion is decidedly in favour of Lord Thurlow and of the right — there can be no doubt of the view which Parliament, in passing that statute, must have taken



of its duty. It acted on its own responsibility, as trustee for the public, on grounds of policy alone, and in disregard of suggested rights, when, without referring a doubtful question to a court of justice, it undertook to decide the point by an express disqualifying enactment. Professor Christian, whose prejudices make him an authority on a subject of this sort, properly remarks,—‘the most strenuous advocates for the  
 ‘admissibility of the clergy by the common law will not necessarily  
 ‘object to their exclusion by an act of the legislature. They were  
 ‘so excluded from the Parliaments of Scotland and Ireland. And  
 ‘perhaps it may be justly observed, that sound policy and the most  
 ‘important interests of society require, that the ambition of a clergy-  
 ‘man should be confined to his own profession, and that piety and  
 ‘learning should be his surest recommendation to advancement.’ All observations on this branch of the legislature must appear superfluous (except as historical facts) after the annihilation of 200,000 Irish freeholders within these two years. Before ‘the shoes were old,’ in which they had walked as the chief reformers at the funeral of the electoral franchise of a whole people, it required no trifling degree of assurance, in the chief opponents of the present measure, to storm and protest against the insecurity to property which the disfranchisement of a few aldermen, non-resident burgesses, and potwallopers, must inevitably produce.

The singling out an individual, as in the case of Wilkes and Tooke, and the destroying the right of which he is in possession, are the most odious cases of legislation, from being occasional and personal acts, and liable to all the suspicions of personality which had made proceedings of this kind, under the name of *privilegia*, so atrocious in the opinion of the Romans. Yet in this, the worst of all cases, Burke is far from questioning the right. His argument, on the Middlesex election, against the vote by which Wilkes had been expelled from the House of Commons by means of a simple resolution of the House, went on the distinction—not that the disqualification in question, or any other, might not properly exist—but that it was legislative in its nature, and therefore required the concurrence of the whole legislature. ‘A legis-  
 ‘lative act has no reference to any rule but these two—original justice,  
 ‘and discretionary application. Therefore it can give rights,—rights  
 ‘where no rights existed before; and it can take away rights where  
 ‘they were before established. For the law which binds all others,  
 ‘does not, and cannot bind, the law-maker: he, and he alone, is above  
 ‘the law.’

There is no peculiar sanctity impressed on political, or any other franchises, in the case when they are engrafted on that intangible and invisible creation of the law called a corporation, whether the corporation be municipal or ecclesiastical. If there is a difference—the fact, that the whole mechanism and structure of an artificial body of this sort are so plainly arbitrary, that no man was ever idiot enough to imagine that they were of the essence and nature of man and of society, shows on which side the difference lies. Among natural rights, who ever maintained that the law of nature entitled a man to be an Alderman of Scarborough, for instance? or in that capacity to job its representation;—in other words, to exchange the right of legislating for the people of England, in consideration of the presentation of the sons of the said alderman to the *cure* of souls in the Vale of Belvoir?



The adoption of the plan developed in Mr. Palgrave's pamphlet, entitled *Conciliatory Reform*, would, we fear, conciliate few of the alarmists, except its learned author. Mr. Palgrave has not been so far betrayed by antiquarian affections, as to take under his patronage the sophism of corporation rights. But a touching remonstrance on the folly of our not reconstructing our legal habitation on the vanished groundwork of Saxon guilds, and the notion that 'unmeaning masses of population' will acquire a meaning, by the process of incorporation, appear to us to be only one degree more reasonable. Places lying without the liberties of a corporation, in the present age, are no worse off, as far as we can observe, than places which happen to be so blessed. On walking one day through Mary-le-Bone, and the next day through the city, we do not see that the case of Mary-le-Bone, and our suburbs, calls for the pity which is expressed on their behalf, as subjected to neglect, 'perhaps without a parallel in Europe.' At all events, Mr. Palgrave knows as well as ourselves — indeed must know infinitely better, if he stops to reason on his knowledge — that, on a comparison of English and foreign institutions, the distinction of corporations will not account (as is suggested) for that prosperous combination of progressive freedom and tranquillity which has so eminently characterised our constitutional career. Other countries have resembled us much more closely in our system of corporations than in our other political divisions of the public power, or in the invaluable school-room, as well as guard-room of a jury.

There is not now, nor ever was, any necessary connection between the exercise of the elective franchise, and the proper duties of a corporate body, — whether the body was united on the terms of a municipal jurisdiction, — an association for the prosecution of felons, or for any other purpose, — a friendly society, or a professional club. Our representative system was complete in its principle, if not in its spirit, without the intervention of the commercial guilds, whose principle was monopoly; or that of the municipal corporation, whose most important object was revenue or police. The more we inquire, the more we find that most of our liberties of every kind had a fiscal origin. Franchises were given to places which could pay for the additional protection. Members were summoned from places which could give the most decisive answer concerning taxes. The chief men in guilds, when there were any, or the borough officers, would be begged, as being the principal people in the place, to undertake the journey, and make the best terms they could, in a matter where they had a deeper interest than the rest, in proportion to their wealth. If the Parliamentary wages were paid only by the electors, the right of election would soon become exclusive, without the charge of usurpation. The complication of villainy and baseness, by which, in later times, the corporate and political connection has been, in most occasions, consummated, and by which it has been stained to its very bone and marrow, passes all conception and belief. If boroughs have not destroyed the muniments they have so long concealed, the historian of the English constitution, and the historian of human corruption, may both hope soon for the publication of a mass of new materials. In case the Cornish boroughs had been placed in a circle within twenty miles of London, instead of being sheltered in the obscurity of a distant province, the moral indignation of the heart of England would have broken to



pieces those infamous organizations of corruption a hundred years ago.

Under these circumstances especially, it has been matter of surprise and pain to us, that so many pastors of a Christian church should have deemed it decent to make common cause with the rotten boroughs. We lament that the clergy, and the body of the English people, seem, at least in political opinion and feeling, to be separated by such a distance — we had almost said such a chasm. Clergymen have as much right to their own sentiments as any other members of the community. But our regret is not the less that this difference in sentiment should exist; nor are our apprehensions less serious for the consequences to which a pertinacious adherence in, and an active manifestation of extreme opinions may (indeed must, in that case, sooner or later,) ultimately lead. The sort of opposition which a people will the least forgive is that which implies the existence of separate interests and of personal distrusts. The necessity that the Church of England must, in many points, itself submit to be reformed, is no secret. Calmly and judiciously reformed, it will remain a national blessing, and speedily regain the affections of the people. The only question is, by whom, and in what manner, and to what extent, this shall be done. A collected opposition by the leaders of the church against a measure of pure political reformation must tend to generate most suspicious inferences, and unavoidable bitterness of feeling. Such an occurrence would, therefore, seriously endanger the present prospect of confining within its proper limits, and of peaceably accomplishing, that species of Reform, which the end and the popularity of the Ecclesiastical Institutions of England absolutely require. Without this, the wisdom and eloquence of their chosen advocates (the best, we take for granted, they could get) from the University of Cambridge, will be of no avail. There are strange rumours in circulation of the course in meditation by the bishops. In what hopes are they indulging? As far back as 1321, to be sure, among the reasons for avoiding the award by which the two Despencers had been banished, is to be found the allegation that it has been passed without the assent of the Prelates. But Bishop Gardiner got no encouragement in his day for the notion, that acts of the legislature would be void for his absence, and that of the other ecclesiastical members of Parliament, even though they were absent by constraint. Laud's brethren took as little by the protest made by them against all acts passed in their absence, as being the acts of a Parliament no longer free. Coke and Selden establish, by sufficient precedents, the validity of a bill, although every spiritual lord should have voted against it. In case the venerable Bishop of Norwich cannot get a proxy, his presence, nevertheless, we trust, will save us from the necessity of solving the debated problem, by what style an act of Parliament should be entered, which has been passed (as was the Act of Uniformity, 1st Eliz. c. 2.) with the dissent of all the bishops. We should dread the omen of the precedent in that statute: the name of the lords spiritual is omitted throughout the whole. Lord Eldon's notions on Reform might come to pass.

God forbid that the English nation should be driven back, in retrospect, to those fatal periods of clerical disaffection to the constitution! It is painful to remember the temper with which George I. was welcomed by the Church of England, when his Parliamentary title to the



throne was the only objection to his person, and the formation of a Whig ministry the only grievance of which the clergy could complain. Of that period, Mr. Hallam observes, that ‘the clergy, in very many instances, were a curse rather than a blessing to those over whom they were set; and the people, while they trusted that from those polluted fountains they drew the living waters of truth, became the dupes of factious lies and spirits.’ Some circumstances at the late Cambridge election (especially the sort of reception given to Lord Palmerston by St. John’s) made us think of Gray’s complaint against that learned University, and of the baneful influence which ‘Jacobitism had produced there on good manners and good letters.’ The germ of this disease is of longer standing. Its inveterateness may be best conceived, by turning to the remarkable debate of 1705, and by considering the declarations which were wrung from every bishop, to whose manliness that church was indebted for its existence, against the undutifulness of a clergy devoted to the Pretender and his cause. Compton, Burnet, Patrick, and Hough rose in succession to protest against their conduct. Burnet’s observations on this debate are worthy of a bishop of 1688. ‘In one respect, it was acknowledged that the church was in danger. There was an evil spirit, and a virulent temper, spread among the clergy. There were many indecent sermons preached on public occasions. These were dangers created by those very men who filled the nation with this outcry against imaginary ones, while their own conduct produced real and threatening danger.’ That excellent man, Bishop Patrick, stood up, and moved, that the judges, also, might be consulted what power the Queen had in visiting the Universities: complaining of the heat and passion of the gentlemen there: which they inculcated into their pupils, who brought with them the same fury to the parishes, when they came abroad, to the great disturbance of public charity. At the election at Cambridge it was shameful to see a hundred or more young students encouraged in hallooing like schoolboys and porters, and crying No Fanatic, No Occasional Conformity, against two worthy gentlemen that stood candidates.’ James I. gave members to the Universities out of his respect for learning, and for the sake of the republic of letters. Late events, were he again on earth, would go far towards provoking him to resume his charter, on a breach of trust. We pray that these encouragers of science and academic merit, in the person of Mr. Cavendish, may never have occasion to apply to themselves the reproach Bishop Hough complained of — of having compounded to be the last of their order.

Whoever is disposed to carp at the moral and tendency of our observations, will find that he is likely to have on his hands a much more extensive quarrel with the English constitution than he was probably at first aware. It has been the fortune of every body, we suspect, within the last three months, to hear a good deal said on all sides, of which he can by no manner of means approve. For our own part, we have never joined in wholesale abuse of the general spirit and character of our institutions. Considering the immense difficulty (according to the experience of mankind in all ages) of constructing and keeping together a tolerably good government, we thought ourselves well off whilst we were in possession of perhaps the best — certainly of the best but one — that ever had existed. On the other hand, we have no distrust of the English people. The system which it is proposed to



substitute for the most defective portions of the former one, connects so naturally, and by so easy a transition, with those sound parts which are retained,—whilst it is, at the same time, throughout, so much more simple, rational, and honest,—that there can be no comparison, if we look at the two on paper, or leave them the matter of plain argument by plain men. In case the middling ranks are at all what we believe them to be, they will not permit the cause of reason to be contradicted and put to shame by the result. The change must secure to us, according to all probability, very nearly every one of our former advantages, whilst it bids fair to save us from a constantly-recurring load of mischief and disgrace. It is no presumption against the intelligence and virtue of the people, that they have resolved to make the experiment. Still less can it be stated (consistently with any respect for truth, sense, or history), that by reason of the revocation of that description of political franchise, which it is necessary to demolish, in order to make room for our alterations, and which had been so long notoriously and irreclaimably abused, we are grounding our reformation on an act of revolutionary injustice.

## PART SECOND.

REFORM IN PARLIAMENT. — CHURCH REFORM. — LIBERTY OF THE PRESS. — IRELAND. — WEST INDIA SLAVERY.

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THE BOROUGH SYSTEM DEFENDED BY MR. WINDHAM:— HIS ARGUMENTS ANSWERED.—EVILS RESULTING FROM THE UNDUE INFLUENCE OF PROPERTY IN ELECTIONS.—THE DEFECTS OF THE REPRESENTATIVE SYSTEM OF ENGLAND.—THE INCREASING POWER OF THE PEOPLE:—THE ADVANTAGES THAT WOULD RESULT FROM A TIMELY CONCESSION TO THEIR WISHES, AND FROM THE ADOPTION OF PARLIAMENTARY REFORM.\*

WE do not often detain our readers with an examination of speeches delivered in Parliament; as, even where there seems ground to rely on their authenticity, the occasional, the popular, and the controversial tone which they naturally assume, seems to render them unfit vehicles for general and comprehensive discussion, and even unfair exponents of the genuine sentiments of their authors. There are various considerations, however, which induce us to make an exception of the little tract now before us.

The subject is the great and perpetually interesting one of REFORM—in the broadest and most comprehensive sense which that term can politically bear:—Not parliamentary reform only,—but every species of change, innovation, or attempt at improvement in our political system, that can be brought about intentionally, and by legislative authority. It is nothing less than the general policy of all such attempts that is discussed in the work before us;—and discussed, not upon the narrow ground of the bill immediately in question, or of any limited or temporary consideration whatever,—but upon general, and often even on abstract, principles of moral and political science.

Such are the attractions of the subject;—and, second only to them, are those which are held out by the name and the character of the author. The little piece before us is not only the work of one of the finest geniuses and most honourable men that the world ever saw, but it is almost the latest memorial by which his splendid talents and manly virtues have left themselves to be remembered. The age which has witnessed the eclipse of the antient splendour and independence of Europe, seems also to be that in which the Heroic Race of England is doomed to become extinct and to perish. The mighty minds of Burke

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\* Speech of the Right Hon. William Windham, in the House of Commons, May 26, 1809, on Mr. Curwen's Bill, 'for better securing the Independence and Purity of Parliament, by preventing the procuring or obtaining of Seats by corrupt Practices.' London, 1810.—Vol. xvii. page 253. February, 1811.



and Fox, and Pitt and Nelson, have been withdrawn, in our own times, from the degraded scene of our affairs ; and almost the last star in that great constellation set at the death of Mr. Windham ; — a death which has deprived his country of its most perfect model of a Gentleman, and left friends and enemies to deplore that generous and romantic gallantry of feeling, which gave a certain chivalrous elevation to all his views and actions ; — those beautiful accomplishments which embellished the whole society in which he lived, — that fine and graceful wit, which fascinated those who were most adverse to his principles, and bound, as with a spell, the very men who were most aware of its seductions, — that high-tempered honour and unsullied purity which were never questioned even by the calumniating zealots of reform, and emerged unspotted even from their monstrous alliance with the creatures of corruption. A better opportunity, we hope, will soon arise, for attempting to delineate the intellectual character of this extraordinary person. But it is not without its use, even at present, to dwell a little upon some of its most singular features, — on the strange opposition which seemed occasionally to subsist between his genius and his opinions — his principles and his prejudices. It is an act, indeed, of essential justice to the public, to endeavour to counteract any errors that may have been spread abroad under the sanction of that respected name ; — to prescribe bounds to an admiration, which can only be carried to excess when it confounds his character and his accomplishments with his tenets ; — and, above all, to unmask the mean arts of those priests of corruption, who would trick out their idol in his mantle, and shield themselves behind the authority of one, who was not their bitterest enemy only because he could not be persuaded to believe in their iniquities, — who, of all the men that ever lived in the world of politics, viewed public profligacy, and every sort of baseness, with the greatest loathing and abhorrence.

Such are the grounds on which we venture to discuss the tract now before us ; containing, we have every reason to believe, from internal evidence, as well as from the various accounts that have reached us, a very accurate report of one of Mr. Windham's latest and most celebrated speeches. Indeed, we apprehend, there cannot be any doubt that he corrected it, or, in other words, wrote it almost entirely himself, from recent recollection, assisted by the very scanty notes of the newspaper reporters, — a circumstance most fortunate in every respect, — both because we have thereby obtained an authentic specimen of the oratory of so great a speaker, on a subject every way worthy of his powers, — and because we are likewise furnished with a full statement, in the words chosen by himself, of the arguments which the most powerful enemy of reform could urge against it, in the most general form of that important question.

Although it is by no means our intention to discuss at large the bill of Mr. Curwen, it is yet necessary, in order to understand this speech, that we should give some little account of the origin and destiny of that celebrated measure. The sale of seats in Parliament, which had long been a matter of universal notoriety, — which Mr. Pitt, in the reforming period of his life, had denounced, both in speeches and resolutions, in the most unmeasured terms, — which petitions, from all parts of the empire, had compared to the ordinary transactions of traffic, — had been forced upon public observation, in a more specific



form, in the course of some discussions in the House of Commons during the session before the last; for it was then distinctly admitted and avowed, by different parliamentary leaders, and by persons actually in the highest offices, as well as by others who had formerly filled them. Two cabinet ministers were indeed proved to have engaged in some bargains of this description; and neither they nor their friends made any attempts to deny the charge. The matter was treated as if they had been accused of occasionally drinking to excess, or of using certain profane expletives in their conversation, — acts, in themselves, no doubt reprehensible, and one of them even forbidden by the Divine law, as well as punishable by our own; but yet, so commonly practised by persons of a certain rank, and generally supposed to be so indifferent to the public welfare, that few men, when accused of them, would think it necessary to make any defence. The individuals in question, therefore, contented themselves with saying nothing; and the House of Commons, without exactly countenancing the practices, and indeed expressing, though very gently, a verbal and decent disapprobation, determined, by its vote, that no one could be punished, or even formally censured, for what everybody knew was constantly going on, — and all who had the means or the occasion were understood to have practised.

This decision, however, gave offence to a great many persons of sound constitutional views; and while they regretted that such an apparent sanction should have been extended to acts highly improper in themselves, — and not the less dangerous for being so universal, — they considered the danger to be materially increased, by the open and undisguised shape which it now assumed, — and thought it clear, that the acts became infinitely more pernicious, when thus avowed and defended. Some legislative provision, therefore, they imagined, was called for, in order at once to declare the criminality of proceedings, upon the precise character of which, the recent decision had thrown, or seemed to throw, so much doubt; and to protect, or restore, the purity of our representation, in so far as it was impaired by transactions of that nature. Mr. Curwen's bill, accordingly, was introduced with these views, and met, at first, with the general support of the persons alluded to; for it went directly to the evil complained of, prohibiting the purchase and sale of seats under severe penalties; — rendering it no easy matter to elude the prohibition; — and superadding the oath of the representative, with respect to the mode of his introduction into Parliament, — accompanied by the usual guards against perjury.

The ministers perceived the general favour which this bill was gaining; and were likewise, it may be presumed, alarmed, in no small degree, by the manly and constitutional language which the occasion called forth from the speaker. It was difficult, however, directly to justify the practice in question, when actually brought into discussion; and as it was by no means their intention seriously to declare war against it, they seem to have thought it the most skilful policy merely not to defend, or, at the utmost, to 'hint a blame,' — to discountenance, or rather to show that Parliament did not countenance, the sale of seats, — to leave the matter, in short, as if no one had brought it forward, — to do away the unpleasant recollections of the Session, as connected with this subject, and, by a kind of act of oblivion, to restore things



to the state in which they would have remained had the question never been agitated, and the conduct of the two ministers, much as it might have been known, had never been formally mentioned. Upon this principle, accordingly, those experienced tacticians proceeded. They yielded, at first, to the sense of the House and of the country, and allowed Mr. Curwen's bill to proceed. But they did more;—they took rather too kind a part in its progress, and altered it so completely by '*amendments*,' that it was absolutely changed at nursing; and all men marvelled how the real parent continued to own it. Indeed, it was so very a changeling, that he could not find a feature whereby to recognize it; and there were not wanting those who observed, that he seemed so resolved to have a bill of some kind, as not to be very anxious what it was like,—just as antient husbands, who long for heirs, are oftentimes not very curious in ascertaining the pedigree of their children. Be this as it may, the bill, *as amended*, was opposed by almost all its original supporters, — and pushed through by Mr. Curwen, with the strenuous assistance of its fosterfathers of the treasury.

On the merits of this law, as it finally stood, it is not our intention to make any general observation; but there is one objection, which enters too deeply into the principle of all such prohibitory enactments, not to be entitled to some share of our attention, even in a general and argumentative discussion; and this is, that, unless very cautiously framed, they run the risk of aggravating, instead of removing, the disorder, and making the King's ministers the sole agents of corruption, and the court party the sole gainers by it,—instead of adding strength to the country, by putting down corruption altogether. To perceive the extent of this hazard, it is only necessary to consider a little how the fact stands. At present, seats are exchanged for various equivalents; — some for money, others for preferment, others for titles. Take away the currency of money in this market, and the seats must either be given away for nothing, or be exchanged for the *other* equivalents — places, honours, &c.; and, as *these* are all in the hands of the ministers, to the ministers must all the seats be sold, which shall not be given away out of mere love and favour. Nor is it possible to prevent this traffic; for it will be forced, by the operation of the law itself, into a shape that must elude all the laws in the statute-book. A nobleman, having the disposal of a borough, can no longer either give his seats to rich men of independent principles, who pay a price, or to the treasury for a certain stipulated reward in jobs, titles, or places; but he can always put in creatures of the court, or creatures of his own, who will vote as the minister directs; and the minister, having his eyes and ears about him, must perceive how much he owes this noble friend; so that he will probably give him what he asks, or rather a part of what he is always asking; and, if he does not, a significant hint may refresh his memory. No statute can reach such an understanding; and thus the rigorous prevention of sale will only throw so many more votes into the hands of government. A few seats, hitherto sold to opposition members, may be given to the same persons for nothing; but, whoever used to derive a revenue from this traffic, which he cannot, or will not, be content to sacrifice, must either go to the treasury with his wares, or, if he is too independent to do such a thing, he must dispose of his borough-interest, (which, arising from property, must be saleable, in spite of any law that can be made touching elections,) and the pur-



chaser will then drive the bargain with government. In short, government will be the only merchant, none other having any of the coin which goes in this market; and, of course, it will enjoy a monopoly.

We confess, that this view of the subject appears to deserve great attention. Indeed, we are not aware how the original measure can be defended against such an argument. It was repeatedly urged, and with much ability, even when the bill had received so many alterations that its inefficacy was more to be apprehended than any mischief it could create; and a motion was archly made, and even pressed to a division, for altering the title of the act, and calling it ‘An act for the better securing the power of the Crown in the Commons House of Parliament, by vesting in the Lords Commissioners of his Majesty’s Treasury the monopoly of seats in the said House.’ Nor were the worthy persons, who introduced the bill, insensible to the force of such considerations. They admitted the measure to be exceptionable, if it was to stand single; but they offered it as part of a system of laws for restoring the purity of elections; and having, in the first instance, prohibited the sale of seats by borough-patrons, they proposed afterwards to take steps for more effectually preventing the sale of votes at elections, and even to limit the numbers of rotten boroughs, by a general parliamentary reform. To us, we will own, such an explanation is by no means a satisfactory answer. For we desire to see the Parliament reformed, chiefly, if not entirely, that a barrier may be raised against the overgrown power of the Crown; and, to begin a set of measures leading to such a reform, with one which goes directly to increase the power of the Crown, seems to us altogether absurd and preposterous. Nay, though it may be intended to follow it up with other measures of an opposite complexion, still the evil done by the first step is certain, while the remedy may never be administered. The measure for increasing the power of the Crown is sure to be carried,—the subsequent plans are very likely to be rejected; so that the reformer will most probably find himself caught in a trap, as it were, in rather a whimsical situation; and not the less whimsical, that the trap had been of his own making, though his enemies may have helped him to lay the bait.

Such seems to have been the more rational view of the measure introduced by Mr. Curwen, and new-modelled, in an unprecedented manner, by the King’s ministers. But it was by no means upon grounds like this, that Mr. Windham, its most powerful antagonist in all its stages, opposed it. He boldly denied the whole assumptions, whether in point of fact or of principle, on which its advocates proceeded. Without stopping for a moment to inquire, whether the bill would augment or restrain the power of the Crown,—without throwing away one thought upon the question of its efficacy or futility,—he denied that its objects were justifiable,—maintained that the practices which it struck at were neither criminal nor improper,—and then urged his general and unqualified objections against every thing which related to parliamentary reform. To him it would have been no reason for rejecting the bill, to show that it was nugatory; for the more wide it went of its mark, it was in his eyes the more harmless. Neither was it any argument in its favour, to prove that seats were sold ‘like stalls in a cattle market,’ to use the language of the reformers; for he held, that there was no earthly reason why they should not. Nor, in arguing whether they ought or ought not to be so disposed of, would he listen



to such topics as we have been touching, and weigh the effects of that traffic upon the independence of Parliament; for he could see nothing corrupt in such bargains. He found no reason for excluding public trusts in general from the market. Men might discharge the duties of them, after obtaining them by purchase, as faithfully, if not quite so ably, as if they took them by a higher title; and at any rate other trusts, of as pure a nature as that of popular representation, being notoriously matter of commerce, he could not discover any pretence for drawing the line here. The patronage of seats being an influence arising from property, he was for allowing it to be disposed of like the other fruits of property; and then came the sweeping argument, that the constitution is good enough—the House of Commons sufficiently well adapted to its objects; and that, as there is little or no temptation to change its structure, so there is a positive risk in seeking unknown results, by trying new experiments upon it. Such were the grounds on which Mr. Windham, in perfect consistency, it must be admitted, with his whole political creed, opposed the measure in question; and such, in a few words, is the substance of the speech with which we are about to make our readers more minutely acquainted. Even from the preceding short summary of the topics which it embraces, may be perceived how distinctly this speech is marked with his characteristic frankness and boldness,—his fair open dealing towards his adversaries,—and his utter contempt of consequences, and, among others, of the dangers of misrepresentation,—his carelessness about popular opinion, or rather his distrust and even dislike of popularity.

Mr. Windham sets out with declaring his very decided opinion, that the law in question ‘is a measure ill-timed, injudicious, founded upon false views, false facts, and false assumptions; calculated to produce no good in the first instance, and liable and likely to lead to the most serious mischiefs in future.’ He then sets himself about examining the fundamental assumption upon which it rests, that the transactions meant to be prohibited are in themselves corrupt; and he says, ‘Let us open the pleadings\* by stating the case.’ But, instead of doing this, he proceeds to something very different. He *puts a case*, and one so very favourable, that it proves little or nothing either way. He supposes a most respectable person to have acquired great influence in a borough from his property, his connections there, and the money which he has spent lawfully and honourably,—as in his family expenses,—in purchases of land yielding a small revenue,—in contesting or securing the franchises of the electors; and he imagines this gentleman to offer the minister his influence, at the next election, in favour of a friend of that government, ‘with which he has always acted in and out of office,’ because he has ‘believed them, in his conscience,’ the fittest of ministers. He wants nothing for himself; but it is fair that he should receive a certain sum ‘towards replacing, in part,’ the heavy expenses to which he has been put in the fair and lawful ways above described. The minister, again, has, most fortunately, a young friend, ‘a man of most extraordinary promise, with his whole mind turned to public business, and likely to become, in time, one of the greatest ornaments and supports of the country.’ As such, he

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\* Where a technical allusion is intended, the speaker or writer should be somewhat more accurate. ‘Opening the pleadings,’ is certainly like any thing rather than stating the case.



proposes him to the borough-patron; and ventures to engage, that the young man's father will cheerfully 'advance the sum' required. 'All this,' says Mr. Windham, 'I am taught to understand is grossly corrupt, much in the same way as any act of speculation or embezzlement.' And he then tries to find with which of the three parties the corrupt or criminal intention rests, whether with the minister, the seller, or the buyer. With the first, however, no blame can lie, except in as far as the others are guilty. He only acts as the go-between, and brings them together. He can only be criminal in so far as they meet for some improper purpose: he therefore asks wherein *their* guilt consists?

Now, we do think that he has *put his case*—with great skill, no doubt, but with the skill of an advocate. He has chosen it so, and thrown in such a crowd of circumstances—some essentially varying it from the case in hand, all of them tending to mislead us in favour of the transaction—that it is pretty clear we cannot safely decide the question on his showing. He has taken an instance which may happen once in a hundred times; and the other ninety and nine may be so very bad, as to justify a general inference as to the class to which the whole hundred belong, and, of consequence, so very bad as to call for a general prohibition, without considering this one rare instance, or making any exception in its favour. With but a very small share of the ingenuity that distinguished that superior person, cases might be put so plausibly, as to shake the very foundations of morality, and undermine the whole system of positive law, provided only that we agree to take those cases for the whole scaffolding, as it were, of our reasonings, and not go beyond their limits. Let us try.

A candidate meets one of his electors, who tells him that their political opinions coincide; that he believes him, in his conscience, to be the fittest man in the world to represent the borough; that he is therefore ready to give his voice for him. But, really, he has paid a high price for the house which gives him a vote; the expenses of repairs are heavy; and he has, at the moment, no less than three lawsuits arising out of the purchase; and so, towards in part replacing the sums thus expended, he requests the worthy candidate will assist him with so many pounds; to which he accedes. All this sounds very innocent; yet it is an *act of Bribery*, subjecting both parties to severe penalties, and justly reprobated by right-thinking men, however frequently it may be practised. It belongs to the same class with another and more ordinary case, which every man of honour feels to be a disgraceful transaction, viz. the open sale of a vote for money to the highest bidder, whatever be his character, and however dangerous his principles in the voter's eyes.

There is scarcely a crime, indeed, which might not be palliated by the invention of such cases as we have been considering; but the moralist and the legislator can look only to the general result, and to the majority of cases; and censure and punish, not only the most offending ones, but also the stray stork which chances to be found in evil company. We must, then, in the outset, recollect, that to the same class with the case put by Mr. Windham, belongs the other case of a base born, sordid Jew, devoid of all principle but that of seeking his own gains, who, having a somewhat longer head than his brethren, as he has acquired a heavier purse, disdains to confine himself to the petty gains of usury, or of clipping and sweating the currency of the



realm, but launches out into wholesale borough speculations, and, by every species of corruption to which money drawn from the lowest sources can lead the way, obtains an influence over so many elections, that he can, by selling half his seats, replace his cash with a handsome profit, and barter the rest for jobs, contracts, knighthood, or the peerage itself. The supporters of Mr. Curwen's bill had evidently as good a right to suppose such a case, as their adversaries had to put the one more creditable to human nature. We much fear, the fact bore them better out; but, if they were warranted in putting it, there is an end of the argument; and as all men must desire to see so vile a practice, and one so hurtful to the community, effectually checked, the only possible objection to the bill which is framed with this view, must be found in some such argument as we have formerly stated, to prove that mischiefs of a still worse nature than those complained of would arise from it, and that, until other reforms shall be effected, this would be a change for the worse.

Mr. Windham proceeds to defend the sale of public trusts; and this he does by instances. He mentions the seats in the parliaments of Paris, where, he contends, as many just and sound judgments were delivered, and as great a number of the best lawyers formed, as in the courts of this country, filled as they are with judges who never purchased their ermine. The church, the army, and certain law-offices in this country are quoted with a similar view: and he thus continues—

‘ We have still, therefore, to look for the ground on which either  
 ‘ the buyer or the seller, in such a transaction as that above stated, is  
 ‘ to be represented as being a man morally corrupt. In fact, if their  
 ‘ proceeding is corrupt, it will be difficult, or, as I should say, utterly  
 ‘ impossible, to stop there, and not to go on and declare corrupt the  
 ‘ very influence itself by which they are enabled to carry into effect  
 ‘ this corrupt bargain. If the buying and selling be corrupt, it can  
 ‘ only be so for reasons which will make it corrupt to have the com-  
 ‘ modity which is capable of being so bought and sold. This is the  
 ‘ true seat of the grievance, as, it must be confessed to be, the true  
 ‘ place in which to apply the remedy. So long as there are persons  
 ‘ in a situation to say, I can make an offer of a seat in Parliament, so  
 ‘ long will there be persons to treat with them for that object, and  
 ‘ so long will means be found for commuting in some way or other  
 ‘ the influence so possessed, for considerations valuable to the posses-  
 ‘ sor. The only effectual way will be to get rid of the influence alto-  
 ‘ gether. To make it penal for any one to have such goods in his  
 ‘ possession. This the honourable mover may be assured is the use  
 ‘ that will be made of his measure (nay it is the just and legitimate  
 ‘ use) by those, who do not scruple now to oppose it, because they  
 ‘ like to argue the question both ways, to be ready for either event;  
 ‘ and may think, possibly, that more is to be gained by procuring the  
 ‘ rejection of it, and by the ground thereby laid for raising a clamour  
 ‘ against Parliament, than they can hope for from the argument and  
 ‘ the authority which it will furnish towards subverting the greater  
 ‘ part of the influence which property is now allowed to retain.

‘ I know how prompt the answer to this will be, and how triumph-  
 ‘ antly I shall be told, that no two things can be more remote from  
 ‘ each other, than the influence of property, — the just, wholesome,  
 ‘ legitimate influence of property, and the sale of seats. But let  
 ‘ us recollect that, in the present business, we are arguing throughout



‘ upon *principle*, and that it is of the nature of *principle* to unite things  
‘ the most various and opposite in their individual forms and circum-  
‘ stances. It is not a question, how far things may be distinguished;  
‘ but how far those, which are naturally distinguished, may be assi-  
‘ milated and made one. Those who can make no distinction between  
‘ an offence against the bribery laws, by giving money to a particular  
‘ voter, and the sale of a seat, can hardly be expected to distinguish  
‘ between the sale of a seat, and such a use of influence as will give  
‘ them the seat to sell.

‘ I am as well aware as another, that there is much influence which,  
‘ though ultimately to be traced to property, is so remote from its  
‘ primary source, has been so changed in the gradations which it has  
‘ passed through, has been so improved by successive graftings, as  
‘ to retain little or nothing of its original character, — of the harshness  
‘ and acerbity of the parent stock. The case is the same as with that  
‘ passion in our nature, which, though too gross to be named, is often  
‘ the source of every thing most delicate and sentimental; which, as  
‘ the poet describes,

—— through some certain strainers well refin’d  
 Is gentle love, and charms all woman-kind.

‘ All, in these instances, that property may have done, is to have given  
‘ to virtue the means of acting, and the opportunity of displaying  
‘ itself; to have furnished the instrument without which its energies  
‘ must have been useless, and to have erected the stage without which  
‘ it would have remained unknown. I am under no apprehensions for  
‘ the fate of influence of this sort. My honourable friend and others,  
‘ notwithstanding the operation of this bill, will be at full liberty, I  
‘ trust, to lay out their thousands in acts of beneficence and bounty,  
‘ in building bridges, or endowing hospitals, in relieving the wants or  
‘ advancing the fortunes of the indigent and meritorious. They may  
‘ still enjoy, together with all the heartfelt satisfaction, all the influence  
‘ which will naturally arise from property so employed —

Him portion’d maids, apprentic’d orphans blest,  
 The young who labour, and the old who rest.

‘ But is this the only way in which property exerts its powers? Is  
‘ it always taken in this finer form of the extract or essence? Is it  
‘ never exhibited in the substance? It is here that the comparison  
‘ will begin, and that the question will be asked; — which the advocates  
‘ of this bill, who do not mean it to extend to the abolition of the  
‘ influence of property, will do well to be prepared to answer; — How;  
‘ if the sale of a seat, or any commutation of services connected with  
‘ such an object, be gross corruption, can we tolerate the influence  
‘ which property gives, in biassing the minds of those who are to give  
‘ their votes? How a landlord, for instance, should have any more  
‘ influence over his own tenants, than over those of another man?  
‘ How a large manufacturer should be able to bring to the poll more  
‘ of his own workmen, than of those employed in the service of his  
‘ neighbour? How an opulent man of any description spending his  
‘ fortune in a borough town should be able to talk of his influence  
‘ among the smaller tradesmen; or be at liberty to hint to his baker  
‘ or his butcher, that, laying out every week such a sum with them  
‘ as he does, he expects that they should oblige him by giving a vote  
‘ to his friend, Mr. Such-a One, at the next election? If all this is



‘ not corrupt, upon the principles on which we are now arguing, I  
 ‘ know not what is. What has money spent with tradesmen, or work  
 ‘ given to manufacturers, or farms let to tenants, to do with the in-  
 ‘ dependent exercise of their right, and the conscientious discharge of  
 ‘ their duty, in the election of a member to serve them in Parliament?  
 ‘ A fine idea truly, that their decision in the choice of a representa-  
 ‘ tive is to be influenced by the consideration of what is best for their  
 ‘ separate and private interest! or that persons, the advocates of purity,  
 ‘ and who will hear of nothing but strict principle, should attempt  
 ‘ to distinguish between the influence which engages a man’s vote by  
 ‘ the offer of a sum of money, and that which forbids the refusal of  
 ‘ it, under the penalty of loss of custom or loss of work, or of the  
 ‘ possession of that on which his wife and family must depend for their  
 ‘ bread? I shall be curious to hear in what manner, not the advo-  
 ‘ cates of this bill, but the advocates for the principles on which this  
 ‘ bill is enforced, will defend themselves against these questions; and  
 ‘ be able to show, that while it is gross corruption, gross moral de-  
 ‘ pravity, in any one who possesses such influence, to connect his own  
 ‘ interest with the use of it, even though he should not use it impro-  
 ‘ perly, it is perfectly innocent to create that influence by the means  
 ‘ just described? Or, on the other hand, if such means are not law-  
 ‘ ful, how the influence of property is to continue, such as it has at  
 ‘ all times subsisted in practice, and been at all times considered as  
 ‘ lawfully subsisting? It is indifferent to me, which side of the alter-  
 ‘ native they take; but let them be well aware that such is the alter-  
 ‘ native to which they will be reduced; and that if they contend  
 ‘ generally, as is now done, that such and such things are corrupt,  
 ‘ because they admit the consideration of interest in matters which ought  
 ‘ to be exclusively decided on principles of duty, it is in vain for them  
 ‘ hereafter to contend that any man has a right to influence his tenants,  
 ‘ or tradesmen, or workmen, by any other means at least than those  
 ‘ by which he may equally influence the tenants, tradesmen, or work-  
 ‘ men of any other person; that is to say, by his talents or by his  
 ‘ virtues, by the services which he may *have* done, and the gratitude  
 ‘ he may *have* inspired.

‘ When I look therefore to the moral qualities of these acts, as  
 ‘ independent of and antecedent to positive law, I am at a loss to find  
 ‘ what it is, either on the score of principle or of authority, that deter-  
 ‘ mines them to be corrupt, or that enables us, if they are corrupt,  
 ‘ to exempt from the same sentence of corruption nine tenths of the  
 ‘ influence, which has hitherto been supposed to be attached, and  
 ‘ legitimately attached, to property, and which, for aught that at  
 ‘ present appears, there is no intention of taking away.’ *Speech,*  
 p. 7 — 11.

We have given this long extract, both because it contains an admirable specimen of Mr. Windham’s unrivalled style in speaking, and because it offers at once to our view the whole gist of his argument. Our answer is very short. We condemn the abuses which throw the nomination of seats into the hands of borough patrons; and we think that the most important and beneficial of all reforms would be that which should prevent the exercise of this power. To us, therefore, and to those who think with us upon the question of reform, it is no sort of argument for the sale of seats, to contend that such a transference is no worse than the possession of the property transferred; and



to remind us, that he who objects to men selling their influence must be against their having it to sell. We *are* against their having it *to sell*: and, as to what is here considered as the *necessary* influence of property over elections, we should, for want of better language, refer to a part of the very passage above quoted, for a description of the legitimate, harmless, and even beneficial use of property, even as connected with elections; and for tracing the line which separates this from the employment of property directly to purchase parliamentary influence. Some there are, no doubt, who would lament any influence which wealth may give in elections; and who would only desist from attempts to prevent it altogether, from knowing their impossibility. To them, the arguments of Mr. Windham must come with still less weight: but almost all men will admit, that *some* line is to be drawn; — that the influence allowed to be conferred by property should be confined to that which is essential to its use and enjoyment; — and that penalties should be opposed, when it is directly applied to the purchase of votes, perhaps the only case in which the law can interfere vindictively, without introducing far greater evils than those which it seeks to remedy.

To those who are already familiar with the facts and the reasonings that bear upon this great question, these brief suggestions will probably be sufficient; but there are many to whom the subject will require a little more explanation; and for whose use, at all events, the argument must be a little more opened up and expanded.

If men were perfectly wise and virtuous, they would stand in no need either of government or of representatives; and, therefore, if they do need them, it is quite certain that their choice will not be influenced by considerations of duty or wisdom alone. We may assume it as an axiom, therefore, however the purists may be scandalized, that, even in political elections, some other feelings will necessarily have play; and that passions, and prejudices, and personal interests, will always interfere, to a greater or a less extent, with the higher dictates of patriotism and philanthropy. Of these sinister motives, individual interest, of course, is the strongest and most steady; and wealth, being its most common and appropriate object, it is natural to expect that the possession of property must bestow some political influence. The question, therefore, is, whether this influence can ever be safe or tolerable — and whether it be possible to mark the limits at which it becomes so pernicious as to justify legislative coercion. Now, we are so far from thinking, with Mr. Windham, that there is no room for any distinction in this matter, that we are inclined, on the whole, to be of opinion, that what we would term the natural and inevitable influence of property in elections, is not only safe, but salutary; while its artificial and corrupt influence is among the most pernicious and reprehensible of all political abuses.

The natural influence of property is that which results spontaneously from its ordinary use and expenditure, in the ways specified by Mr. Windham, in the passage already cited. That a man who spends a large income in the place of his residence — who subscribes handsomely for building bridges, hospitals, and assembly-rooms, and generally to all works of public charity or accommodation in the neighbourhood — and who, moreover, keeps the best table for the gentry, and has the largest accounts with the tradesmen — will, without thinking or caring about the matter, acquire more influence, and find more people ready to oblige him, than a poorer man, of equal virtue and talents, is a



fact, which we are as little inclined to deplore, as to call in question. Neither does it cost us any pang to reflect, that, if such a man was desirous of representing the borough in which he resided, or of having it represented by his son or his brother, or some dear and intimate friend, his recommendation would go much farther with the electors than a respectable certificate of the extraordinary worth and abilities of the opposite candidate.

Such an influence as this, it would evidently be quite absurd for any legislature to think of interdicting, or even for any reformer to attempt to put down. In the *first* place, because it is founded in the very nature of men and of human affairs, and could not possibly be prevented, or considerably weakened, by any thing short of an universal regeneration; *secondly*, because, though originating from property, it does by no means imply, either the baseness of venality, or the guilt of corruption; but rests infinitely more upon feelings of vanity, and social instinctive sympathy, than upon any consciousness of dependence, or paltry expectation of personal emolument; and, *thirdly*, because, taking men as they actually are, this mixed feeling is, upon the whole, both a safer and a better feeling than the greater part of those, to the influence of which they would be abandoned, if this could be destroyed. If the question were, always, whether a man of wealth and family, or a man of sense and virtue, should have the greatest influence, it would no doubt be desirable that the preponderance should be given to merit. But this is by no means the true state of the contest:—and, when the question is between the influence of property and the influence of intriguing ambition and turbulent popularity, we own that we are glad to find the former most frequently prevalent. In ordinary life, and in common affairs, this natural and indirect influence of property is vast and infallible; and nothing can conduce so surely to the stability and excellence of a political constitution, as to make it rest upon the general principles that regulate the conduct of the better part of the individuals who live under it, and to attach them to their government by the same feelings which ensure their affection or submission in their private capacity. There could be no security, in short, either for property, or for any thing else, in a country where the possession of property did not bestow some political influence.

This, then, is the natural influence of property; which we would not only tolerate, but encourage. We must now endeavour to explain that corrupt or artificial influence, which we conceive it to be our duty by all means to resist and repress. Under this name, we would comprehend all wilful and direct employment of property to purchase or obtain political power, in whatever form the transaction might be embodied: but, with reference to the more common cases, we shall exemplify only in the instances of purchasing votes by bribery, or holding the property of those votes distinct from any other property, and selling and transferring them for a price, like any other marketable commodity. All such practices are stigmatized, in common language and in common feelings, as corrupt and discreditable; and the slightest reflection upon their principles and their consequences will show, that while they tend to debase the character of all who are concerned in them, they lead directly to the subversion of all that is valuable in a representative system of government. That they may, in some cases, be combined with that indirect and legitimate influence of property of which we have just been speaking, and, in others, be insidiously engrafted upon it, it



is impossible to deny ; but that they are clearly distinguishable from the genuine fruits of that influence, both in their moral character and their political effects, we conceive to be equally indisputable. And, in answer to all Mr. Windham's ingenious sophistry, as to the identity of *principle* in all the cases in question, we shall only oppose his own sound observations, in a subsequent page, as to the extreme folly and unfairness of classing human actions under one *moral* denomination, because they may be brought under one verbal or metaphysical description.

‘ There are laws, I believe,’ says Mr. Windham, ‘ to restrain the retail sale of spirits. Should we think that a man argued very wisely or conclusively, with much fairness of representation, or much knowledge of the principles of legislation, who should harangue at the door of an alehouse (the only place however fit for such a discourse) against the justice of laws, which could punish a publican for selling a dram to a poor wretch, who wanted it perhaps to solace him under the effects of cold and hunger, to whom it must stand in the place of food and raiment ; while the same law did not scruple to permit the sale of these spirits by wholesale on the part of the rich merchant or still more opulent planter ? and should take occasion from thence to ask (exactly in the style of my honourable friend) if such was the punishment for selling a dram or gill, what did they deserve who sold these spirits by whole puncheons and ship-loads ? *The answer is*, that these acts do not stand to each other in the relation of more or less, but are perfectly disparate and dissimilar ; are productive of different consequences ; are to be regulated by different provisions ; are so widely separated in character, as that the one may be an object of national encouragement, a source of public wealth and benefit, while the other can produce nothing but mischief, and is a practice requiring to be restrained by penal statute.’ *Speech*, p. 12, 13.

Such is the most general and abstract view which, we think, need be taken of this interesting question. — But, with a view to the particular points in discussion, it is necessary that we should also consider it, for a moment, with reference to the actual state of the fact, and the practice in this country. Upon the subject of direct bribery to individual voters, it cannot be necessary to say any thing ; the law and the feeling of all mankind have marked that practice with reprobation : and even Mr. Windham, in the wantonness of his controversial scepticism, does not pretend to say, that the law or the feeling is erroneous, or that it would not be better that both should, if possible, be made still stronger than they are.

Setting this aside, however, the great practical evils that are suffered to result from the influence of property in the elections of this country, are, 1st, that the representation of certain boroughs is entirely, necessarily, and perpetually at the disposal of certain families, so as to be familiarly considered as a part of their rightful property ; and, 2dly, that certain other boroughs are held and managed by corrupt agents and jobbers, for the express purpose of being sold for a price in ready money, either through the intervention of the treasury, or directly to the candidate. That both these are evils and deformities in our system of representation, we readily admit ; though by no means to the same extent, or produced by the operation of the same causes.

With regard to the boroughs that are permanently in possession of certain great proprietors, these are, for the most part, such small or



decayed boroughs, as have fallen, almost insensibly, under their control, in consequence of the extension of their possessions, and the decline of the population. Considered in this light, it does not appear that they can, with any propriety, be regarded either as scenes of criminal corruption, or as examples of the reprehensible influence of property. If a place which still retains the right of sending members to Parliament comes to be entirely depopulated, like Old Sarum, it is impossible to suppose that the nomination of its members should vest in any one but the *proprietor* of the spot to which the right is attached: and, even where the decay is less complete than in this instance, still, if any great family has gradually acquired the greater part of the property from which the right of voting is derived, it is equally impossible to hold that there is any thing corrupt or reprehensible in its availing itself of this influence. Cases of this sort, therefore, we are inclined to consider as cases of the fair influence of property; and though we admit them to be both contradictory to the general scheme of the constitution, and subversive of some of its most important principles, we think they are to be regarded as flaws and irregularities brought on by time and the course of events, rather than as abuses introduced by the vices and corruptions of men. The remedy would be, to take the right of election from all places so small and insignificant as to have become, in a great measure, the property of an individual — not to rail at the individual who avails himself of the influence *inseparable* from such property — or to dream of restraining him in its exercise, by unjust penalties and impossible regulations.

The great evil, however, is in the other description of boroughs — those that are held by agents or jobbers, by a very different tenure from that of great proprietors and benefactors, and are regularly disposed of by them, at every election, for a price paid down, either through the mediation of the ministry, or without any such mediation. In the former case, they obtain the significant appellation of ‘Treasury boroughs;’ in the latter, they are described merely as venal or rotten. For the sake of the more innocent part of our readers, it is necessary to explain, in one sentence, the mechanism and organization of this disgraceful traffic.

The scene of it is laid almost entirely in the smaller and more inconsiderable boroughs, containing from 150 to 400 or 500 voters,—places such as are scattered so plentifully over Cornwall and Devon—too large to have become the property of any family or individual,—and far too small and insignificant to contain any available portion of popular spirit or opulent independence. In every place of this description, it has, for a considerable time back, been the practice for some judicious borough-agent to settle himself,—an animal, for the most part, of the attorney *genus*, and of that class most remarkable for activity, and for a conscience singularly unsusceptible of scruples. By the judicious employment of a little capital, he soon acquires the control of a considerable number of votes; and, by heading and fomenting local jealousies and quarrels,—by cajoling, soliciting, promising, and actually bribing,—he finally gets the command of a very considerable part of the electors, along with a pretty accurate knowledge of the dispositions and vulnerable points of those who are not entirely at his devotion.

When things are in this train, he may proceed to open his negotiations with the treasury. This is done, in the first instance, as we



understand, with much decency and decorum. The attorney represents, that, by long residence, and the expenditure of much money, he has acquired considerable influence in such and such a borough; that he and his friends are exceedingly well affected to his Majesty's government, and would be very happy to exert themselves in behalf of any candidate who was fortunate enough to possess the confidence of his servants: but that, in order to secure his election, two things are necessary; first, the instant payment of a small sum of money—from 3000*l.* to 4000*l.*—in order to indemnify him for the heavy expense incurred in establishing his influence; and, secondly, the promise of making him the organ and distributor of all the local and petty patronage which the government may exercise in that district, and of listening favourably to his recommendations in behalf of their supporters in the burgh. The minister makes a gracious answer to this overture; pledges himself for the patronage; and soon finds a candidate who is willing to advance the money. When the matter is thus far managed, the agent returns to his borough,—distributes a part of the money among the worser part of the electors, without the knowledge of the candidate, and secures a great many more by promises of little offices for themselves, and of appointments or promotion for their children and relations, in the excise, the church, the army, or the navy. A further sum is expended in importing and feeding electors; and the member is returned, untainted with any act of direct bribery to his constituents; but entirely upon an interest that is, in all its stages, equally corrupt and unworthy.

What we have now represented, is a kind of theoretical sketch of the first transformation of a small borough into a treasury borough,—an occasion on which there is much less gain to the agent, and more direct bribery among the electors, than is likely to occur after it has once decidedly assumed this character. The skill and opportunities of the agent improve, of course, as his experience increases; and, if the minister keep his word tolerably as to the article of patronage, it is often found practicable to carry on matters by that means alone, and to dispose of the place by the help of this influence, joined to good management and old connection, without any actual advance of money, except to a few who are unusually profligate, or unusually needy.

It thus appears, that Treasury boroughs are boroughs that are sold by usurping and intriguing agents, partly for money paid over by the candidate, and partly for offices and patronage corruptly promised and distributed by ministers. The gainers are—the ministers, who secure a seat to a creature of their own, by a moderate abuse of patronage—the member, who obtains his seat for a much smaller sum than if the whole price had been to be paid in ready money—the agent, who pockets a part of the money actually paid, and becomes a person of consequence, as the local organ of ministerial influence—and the corrupt electors, who get cash or offices for their subserviency to the laudable views of these several persons:—the only losers being the honest electors, who are virtually deprived of their franchises,—and *the country* and *the constitution*, which suffer, to an alarming and incalculable extent, by the general debasement of political principle, and the enormous addition that is thus made to the enormous influence of the Crown.

We have stated the simplest and most elementary case of borough-monging,—both because almost all the others are founded upon the



same basis, and because, in point of fact, by far the greater number of cases are very nearly of this very description. The variations are, that the seat is sometimes sold to opposition candidates, who, having no patronage to offer, for the most part pay higher in ready money; and that the great wealth and consequence that results to the agent, have unfortunately redeemed a part of the disgrace that should attach to his vocation, and not only drawn persons, individually respectable, into the traffic, but have induced some of those, who held their influence by the fair tenure of property, to participate in his unlawful gains.

But, even without entering into these considerations, we think we may now venture to ask, whether it be possible for any man to shut his eyes upon the individual infamy and the public hazard that are involved in these proceedings, or for one moment to confound them, even in his imagination, with the innocent and salutary influence that is inseparable from the possession and expenditure of large property? The difference between them is not less than between the influence which youth and manly beauty, aided by acts of generosity and proofs of honourable attachment, may attain over an object of affection, and the control that may be acquired by the arts of a hateful procuress, and by her transferred to an object of natural disgust and aversion. The one is founded upon principles which, if they are not the most lofty or infallible, are still among the most amiable that belong to our imperfect nature, and leads to consequences eminently favourable to the harmony and stability of our social institutions; while the other can only be obtained by working with the basest instruments on the basest of our passions, and tends directly to sap the foundations of private honour and public freedom, and to dissolve the kindly cement by which nature herself has knit society together in the bonds of human sympathy and mutual dependence. To say that both sorts of influence are derived from property, and are therefore to be considered as identical, is a sophism scarcely more dignified or ingenious than that which would confound the occupations of the highwayman and the honourable merchant, because the object of both was gain; and which should assume the philosophical principle, that all voluntary actions are dictated by a view to ultimate gratification, in order to prove that there was no distinction between vice and virtue; and that the felon, who was led to execution amidst the execrations of an indignant multitude, was truly as meritorious as the patriot, to whom his grateful country decreed unenvied honours for its deliverance from tyranny. The truth is, that there is nothing more dangerous than those metaphysical inquiries into the ultimate constituents of merit or delinquency; and that, in every thing that is connected with practice, and especially with public conduct, no wise man will ever employ such an analytical process to counteract the plain intimations of conscience and common sense, unless for the purpose of confounding an antagonist, or perplexing a discussion, to the natural result of which he is unfriendly on other principles.

But if the practices to which we are alluding, be clearly base and unworthy in the eyes of all upright and honourable men, and most pregnant with public danger in the eyes of all thinking and intelligent men, it must appear still more strange to find them defended on the score of their antiquity, than on that of their supposed affinity to practices that are held to be innocent. Yet the old cry of Innovation! has been raised, with more than usual vehemence, against those who offer



the most cautious hints for their correction; and even Mr. Windham has not disdained to seek some aid to his argument from a misapplication of the sorry common-places about the antiquity and beauty of our constitution, and the hazard of meddling at all with that under which we have so long enjoyed so much glory and happiness. Of the many good answers that may be made to all arguments of this character, we shall content ourselves with one, which seems sufficiently conclusive and simple.

The abuses, of which we complain, are *not* old, but recent; and those who seek to correct them, are not innovating upon the constitution, but seeking to prevent innovation. The practice of jobbing in boroughs was scarcely known at all in the beginning of the last century; and was not systematized, nor carried to any very formidable extent, till within the last forty years. At all events, it most certainly was not in the contemplation of those by whom the frame of our constitution was laid; and it is confessedly a perversion and abuse of a system, devised and established for very opposite purposes. Let any man ask himself, whether such a scheme of representation, as is now actually in practice in this country, can be supposed to have been intended by those who laid the foundations of our free constitution, or reared upon them the proud fabric of our liberties? Or let him ask himself, whether, if we were now devising a system of representation for such a country as England, there is any human being who would recommend the adoption of the system that is practically established among us at this moment, — a system under which fifty or sixty members should be returned by twenty or thirty paltry and beggarly hamlets, dignified with the name of boroughs; while twenty or thirty great and opulent towns had no representation: — and where upwards of a hundred more publicly bought their seats, partly by a promise of indiscriminate support to the minister, and partly by a sum paid down to persons who had no natural influence over the electors, and controuled them notoriously, either by direct bribery, or as the agents of ministerial corruption? If it be clear, however, that such a state of things is indefensible, it is still clearer that it is not the state of things which is required by the true principles of the constitution; that, in point of fact, it neither did nor could exist at the time when that constitution was established; and that its correction would be no innovation on that constitution, but a beneficial restoration of it, both in principle and in practice. If some of the main pillars of our mansion have been thrown down, is it a dangerous innovation to rear them up again? If the roof has grown too heavy for the building, by recent and injudicious superstructures, is it an innovation if we strengthen the supports upon which it depends? If the waste of time, and the elements, have crumbled away a part of the foundation, does it show a disregard to the safety of the whole pile, if we widen the basis upon which it rests, and endeavour to place it upon deeper and firmer materials? If the rats have eaten a way into the stores and the cellars; or if knavish servants have opened private and unauthorized communications in the lower parts of the fabric, does it indeed indicate a disposition to impair the comfort and security of the abode, that we are anxious to stop up these holes, and to build across those new and suspicious approaches? Is it not obvious, in short, in all such cases, that the only true innovators are Guilt and Time; and that they who seek to repair what time has wasted, and to restore



what guilt has destroyed, are still more unequivocally the enemies of innovation, than of abuse? Those who are most aware of the importance of reform, are also most aware of the hazards of any theoretical or untried change; and, while they strictly confine their efforts to the *restitution* of what all admit to have been in the original plan of our representation, and to have formed a most essential part of that plan, may reasonably hope, whatever other charges they may encounter, to escape that of a love of innovation.

There is another topic, on which Mr. Windham has dwelt at very great length, which appears to us to bear even less on the merits of the question, than this of the antiquity of our constitution. The abuses and corruptions which Mr. Curwen aimed at correcting, ought not, he says, to be charged to the account of ministers or members of Parliament alone. The greater part of them both originate and end with the people themselves, — are suggested by their baseness and self-interest, and terminate in their corrupt gain, with very little voluntary sin, and very little advantage of any sort to ministers or candidates. Now, though it is impossible to forget what Mr. Windham has himself said, of the disgraceful abuses of patronage committed by men in power, for their own individual emolument\*, yet we are inclined, upon the whole, to admit the truth of this statement. It is, what we have always thought it our duty, to point out to the notice of those who can see no guilt but in the envied possessors of dignity and power; and forms, indeed, the very basis of the answer we have repeatedly attempted to give to those Utopian or factious reformers, whose intemperance has done more injury to the cause of reform, than all the sophistry and all the corruption of their opponents. But, though we admit the premises of Mr. Windham's argument, we must utterly deny his conclusions. Though we admit, that a part of the people is venal and corrupt, as well as its rulers, we really cannot see that we have admitted any thing in defence of venality and corruption; — nor can we imagine, how that melancholy and most humiliating fact can help in the least to make out, that corruption is not an immoral and pernicious practice; — not a *malum in se*, as Mr. Windham has been pleased to assert; nor even a practice which it would be just and expedient, if it were practicable, to repress and abolish. The only just inference from the fact is, that ministers and members of Parliament are not the only guilty persons in the traffic; — and that all remedies are likely to be inefficient, which are not capable of being applied through the whole range of the malady. It may be a very good retort from the gentlemen within doors to the gentlemen without; — and when they are reproached with not having clean hands, it may be very natural for them to ask a sight of those of their accusers.

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\* ‘ With respect to the abuse of patronage, one of those by which the interests of countries will in reality most suffer, I perfectly agree, that it is likewise one, of which the government, properly so called, that is to say, persons in the highest offices, are as likely to be guilty, and, from their opportunities, more likely to be guilty, than any others. Nothing can exceed the greediness, the selfishness, the insatiable voracity, the profligate disregard of all claims from merit or services, that we often see in persons in high official stations, when providing for themselves, their relations, or dependants. I am as little disposed as any one to defend them in this conduct. Let it be reprobated in terms as harsh as any one pleases, and much more so than it commonly is.’ *Speech*, p. 28.

But is this any answer at all to those who insist upon the infamy and the dangers of corruption in both quarters? Or, is the evil really supposed to be less formidable, because it appears to be very widely extended, and to be the fair subject, not only of reproach, but of recrimination? The seat of the malady, and its extent, may indeed vary our opinion as to the nature of the remedy which ought to be administered; but the knowledge, that it has pervaded more vital parts than one, certainly should not lead us to think that no remedy whatever is needed, — or to consider the symptoms as too slight to require any particular attention.

But, though we differ thus radically from Mr. Windham in our estimate of the nature and magnitude of this evil, we have already said, that we are disposed to concur with him in disapproving of the measure which was lately proposed for their correction. The bill of Mr. Curwen, and all bills that aim only at repressing the ultimate traffic for seats, by pains and penalties to be imposed on those immediately concerned in the transaction, appears to us to begin at the wrong end, — and to aim at repressing a result which may be regarded as necessary, so long as the causes which led to it are allowed to subsist in undiminished vigour. It is like trying to save a valley from being flooded, by building a paltry dam across the gathered torrents that flow into it. The only effect is, that they will make their way, by a more destructive channel, to worse devastation. The true policy would have been, to drain the feeding rills at their fountains, or to provide another vent for the stream, before it had reached the declivity by which the flat is commanded. While the spirit of corruption is unchecked, and even fostered in the bosom of the country, the interdiction of the common market will only throw the trade into the hands of the more profligate and daring, — or give a monopoly to the privileged and protected dealings of administration; and the evil will in both ways be aggravated, instead of being relieved. To make our own system of cure intelligible, it is necessary for us to explain, in a very general way, in what we conceive the evils of this corruption chiefly to consist.

It would be easy to enumerate many, of a pretty formidable description; but, for our present purpose, they may be summed up under two main divisions. In the first place, the weakening and depravation of that public principle, and general concern for right and liberty, upon which all political freedom must ultimately depend; and, 2dly, the vast increase of the power of the crown, by the means which this organized system of corruption affords, for bringing the whole weight of its enormous patronage to bear upon the body of the legislature.

The first of these is the grand, radical, and parent evil; from which the second, and a thousand others of less note, are legitimately descended: — but the second is the most formidable of all its existing progeny, and may be regarded as the worst and most dangerous of the fruits which it has yet brought to maturity. The vast and alarming extent of this influence, and its actual effects upon the legislature, and indeed upon all the higher classes of society, we have endeavoured, on a former occasion, to explain\*; and earnestly entreat all

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\* Vol. xvi. p. 197, &c.



who do not bear the state of the fact very clearly in their remembrance, to look back to the detail by which we have there supported our opinion, as to the enormous increase of that influence, and of the dangers to which it gives birth. An influence it is, we are firmly persuaded, that has increased sevenfold during the present reign, in the actual amount of the patronage, and other means of seduction, in the disposal of which it consists, — and seventy-and-seven fold in the art of applying those means, and in the power which they have obtained from the circumstances and habits of a great part of the community; — an influence, which is not only undermining the foundations of our constitutional liberty, but rendering the government itself, and the characters of public men contemptible in the eyes of all who are either above or below the sphere of its operations; and thus preparing the materials of a dreadful explosion, and paving the way for that ominous union of improvidence, corruption, timidity, and actual establishment, on the one hand, and of talents, turbulence, honest enthusiasm, and physical strength, on the other, which have so recently covered the face of Europe with the ruins of its antient governments.

Every plan of reform, therefore, which is calculated to meet the evils from which we actually suffer, should have for its objects, as it appears to us; first, to diminish and restrain the influence of the Crown; and then to foster and encourage the spirit and the love of liberty among the great body of the people. It should be calculated, like the prescription of a wise physician, in the first place, to relieve the most urgent and alarming of the symptoms by which the patient is oppressed or endangered; and then to eradicate and counteract the general morbid tendency or habit, from which it may appear that those and all other indications of disease had taken their origin. The influence of the Crown is the distressing symptom of our present malady; and its operation on the legislature, its most alarming and characteristic peculiarity. This, therefore, we must endeavour in the first place to obviate and relieve; and apply ourselves afterwards to remove the unhealthy diathesis which will otherwise threaten the return of this, or of some other analogous symptom.

We have indicated, on a former occasion, the first and most important steps which we think should be taken to remove a part of the pressure of this influence from the legislative assembly, by a resolute and peremptory exclusion of a great variety of subordinate placemen, and minor officers of the government, who are now allowed to sit in that body. The bartering of such offices for regular attendance and unfailing support, is one of the most direct and dangerous of the corruptions that are carried on by the immediate servants of the sovereign; and, at the same time, is of such a kind, as hardly to be reached by any penal or prohibitory enactment; and, in fact, would only be encouraged by such a bill as that which is introduced by Mr. Curwen. The obvious and effectual remedy, therefore, is to make the holders of such offices incapable of sitting or voting; and thus either cutting off entirely this whole branch of unlawful traffic, or at least curtailing its profits to an incredible degree, by forcing it into a far more unsafe and circuitous channel.

The next step is, — to endeavour to reduce the actual amount of the influence itself, by abolishing all sinecure and unnecessary places and offices — introducing and enforcing a system of rigid and jealous



economy — and throwing a part, at least, of the patronage, which is now vested in the crown, into detached and inconsiderable bodies of electors.

After that, it may perhaps be found practicable really to render corruption more difficult — by multiplying the numbers, and raising the qualifications of voters — by taking away the right of election from decayed, inconsiderable, and *rotten* boroughs, and bestowing it on great towns, possessing various and divided wealth. But, though the increased number of voters will make it more difficult to bribe them, and their greater opulence render them less liable to be bribed; still, we confess that the chief benefit which we expect from any provisions of this sort, is the security which we think they will afford for the improvement, maintenance, and propagation of a free spirit among the people — a feeling of political right, and of individual interest, among so great a number of persons, as will make it not only discreditable, but *unsafe*, to invade their liberties, or trespass upon their privileges. It is never to be forgotten, that the great and ultimate barrier against corruption, oppression, and arbitrary power, must always be raised on public opinion — and on opinion so valued and so asserted, as to point resolutely to *resistance*, if it be once insulted, or set at defiance. In order to have this public opinion, however, either sufficiently strong, or sufficiently enlightened, to afford such a security, it is quite necessary that a very large body of the people be taught to set a value upon the rights which it is qualified to protect, — that their reason, their moral principles, their pride, and habitual feelings, should all be engaged on the side of their political independence, — that their attention should be frequently directed to their rights and their duties, as citizens of a free state, — and their eyes, ears, hearts and affections, familiarized with the spectacles, and themes, and occasions, that remind them of those rights and duties. In a commercial country like England, the pursuit of wealth, or of personal comfort, is apt to engross the whole care of the body of the people; and, if property be tolerably secured by law, and a vigilant police repress actual outrage and disorder, they are likely enough to fall into a general forgetfulness of their political rights, and even to regard as burdensome those political functions, without the due exercise of which the whole frame of our liberties would soon dissolve, and fall to pieces. It is of infinite and incalculable importance, therefore, to spread, as widely as possible, among the people, the feelings and the love of their political blessings — to exercise them unceasingly in the evolutions of a free constitution — and to train them to those sentiments of pride, and jealousy, and self-esteem, which arise naturally from their experience of their own value and importance in the great order of society, and upon which alone the fabric of a free government can ever be safely erected.

We indicate all these things very briefly; both because we cannot now afford room for a more full exposition of them, and because it is not our intention to exhaust this great subject on the present occasion, but rather to place before our readers a few of the leading principles upon which we shall think it our duty to expatiate at other opportunities. We cannot, however, bring even these preliminary and miscellaneous observations to a close, without taking some notice of a topic which seems peculiarly in favour with the reasoning enemies of reform; and to which we cannot reply, without developing, in a more striking manner than we have yet done, the nature of our apprehensions



from the influence of the crown, and of our expectations of good from the increased spirit and intelligence of the people.

The argument to which we allude, proceeds upon the concession, that the influence of the crown has increased very greatly within the last fifty years; and consists almost entirely in the assertion, that this increase, great as it undoubtedly is, yet has not kept pace with the general increase which has taken place, in the same period, in the wealth, weight, and influence of the people; so that, in point of fact, the power of the crown, although *absolutely* greater, is *proportionally* less than it was at the commencement of the present reign; and ought to be augmented, rather than diminished, if our object be to preserve the antient balance of the constitution. We must do Mr. Windham the justice to say, that he does not make use of this argument; but it forms the grand reserve of Mr. Rose's battle; and, we think, is more frequently and triumphantly brought forward than any other, by those who affect to justify abuses by argumentation.

The first answer we make to it, consists in denying the fact upon which it proceeds, at least in the sense in which it must be asserted, in order to afford any shadow of colour to the conclusion. There is, undoubtedly, far more wealth in the country than there was fifty years ago; but there is not more independence; — there are not more men whose incomes exceed what they conceive to be their necessary expenditure; — not nearly so many who consider themselves as nearly rich enough, and who would therefore look on themselves as without apology for doing any thing against their duty or their opinions, for the sake of profit to themselves: On the contrary, it is notorious, and not to be disputed, that our luxury, and habits of expense, have increased considerably faster than the riches by which they were suggested — that men, in general, have now far less to spare than they had when their incomes were smaller — and that, if our condition may, in one sense, be said to be a condition of opulence, it is, still more indisputably, a condition of needy opulence. It is perfectly plain, however, that it is not the absolute amount of wealth which exists in a nation, that can ever contribute to render it politically independent of patronage, or intractable to the persuasive voice of a munificent and discerning ruler, but the general state of content and satisfaction which results from its wealth being proportioned to its occasions of expense. It neither is, accordingly, nor ever was, among the poor, but among the expensive and extravagant, that corruption looks for her surest and most profitable game; nor can her influence ever be anywhere so great, as in a country where almost all those to whom she will think it most important to address herself, are straitened for money, and eager for preferment — dissatisfied with their condition as to fortune — and, whatever may be the amount of their possessions, practically needy, and impatient of their embarrassments. This is the case with the greater part even of those who actually possess the riches for which this country is so distinguished: but the effect of their prosperity has been, to draw a far greater proportion of the people within the sphere of ambition — to diffuse those habits of expense which give corruption her chief hold and purchase, among multitudes who are spectators only of the splendour in which they cannot participate, and are infected with the cravings and aspirations of the objects of their envy, even before they come to be placed in their circumstances. Such needy adventurers are constantly generated by the rapid progress of

wealth and luxury ; and are sure to seek and court that corruption which is obliged to seek and court, though with too great a probability of success, those whose condition they miscalculate, and labour to attain. Such a state of things, therefore, is far more favourable to the exercise of the corrupt influence of government, than a state of greater poverty and moderation ; and the same limited means of seduction will go infinitely farther among a people in the one situation than in the other. The same temptations that were repelled by the simple poverty of Fabricius, would, in all probability, have bought half the golden satraps of the Persian monarch, or swayed the counsels of wealthy and venal Rome, in the splendid days of Catiline and Cæsar.

This, therefore, is our first answer ; and it is so complete, we think, as not to require any other, for the mere purpose of confutation. But the argument is founded upon so strange and so dangerous a misapprehension of the true state of the case, that we think it our duty to unfold the whole fallacy upon which it proceeds, and to show what very opposite consequences are really to be drawn from the circumstances that have been so imperfectly conceived, or so perversely viewed, by those who contend for increasing the patronage of the sovereign as a balance to the increasing consequence of the people.

There is a foundation, in fact, for some part of this proposition ; but a foundation that has been strangely misunderstood by those who have sought to build upon it so revolting a conclusion. The people *has* increased in consequence, in power, and in political importance. Over all Europe, we verily believe that they are everywhere growing too strong for their governments ; and that, if these governments are to be preserved, *some* measures must be taken to accommodate them to this great change in the condition and interior structure of society. But this increase of consequence is not owing to their having grown richer ; and still less is it to be provided against, by increasing the means of corruption in the hands of their rulers. This requires, and really deserves, a little more explanation.

All political societies may be considered as divided into three great classes or orders. In the first place, the governors, or those who are employed, or hope to be employed by the governors, and who therefore either have, or expect to have, profit or advantage of some sort from the government. In the second place, those who are in opposition to the government, who feel the burdens and restraints which it imposes, are jealous of the honours and emoluments it enjoys or distributes, and grudge the expense and submission which it requires, under an apprehension, that the good it accomplishes is not worth so great a sacrifice. And, thirdly and finally, those who may be counted for nothing in all political arrangements — who are ignorant, indifferent, and quiescent — who submit to all things without grumbling or satisfaction — and are contented to consider the existing institutions as a part of the natural order to which it is their duty to accommodate themselves.

In rude and early ages, this last division includes by far the greater part of the people : but, as society advances, and intellect begins to develop itself, a greater and a greater proportion is withdrawn from it, and joined to the two other divisions. These drafts, however, are not made indiscriminately, or in equal numbers to the two remaining orders ; but tend to throw a preponderating weight, either into the scale of the government, or into that of its opponents, according to the character of that government, and the nature of the circumstances by which they



have been roused from their neutrality. The diffusion of knowledge, the improvements of education, and the gradual descent and expansion of those maxims of individual or political wisdom that are successively established by reflexion and experience, necessarily raise up more and more of the mass of the population from that state of brutish acquiescence and incurious ignorance in which they originally slumbered. They begin to feel their relation to the government under which they live; and, guided by those feelings, and the analogies of their private interests and affections, they begin to form, or to borrow, *opinions* upon the merit or demerit of the institutions and administration, to the effects of which they are subjected; and to conceive *sentiments* either hostile or friendly to such institutions and administration. If the government be mild and equitable — if its undertakings are prosperous, its impositions easy, and its patronage impartial — the greater part of those who are thus successively awakened into a state of rational and political capacity, will be enrolled among its supporters, and strengthen it against the factious, ambitious, and disappointed persons, who alone will be found in opposition to it. But if, on the other hand, this disclosure of intellectual and political sensibility occur at a period when the government is capricious or oppressive — when its plans are disastrous — its exactions burdensome — its tone repulsive — and its distribution of favours most corrupt and unjust; — it will infallibly happen, that the greater part of those who are thus called into political existence, will take part against it, and be disposed to exert themselves for its correction, or utter subversion.

The last supposition, we think, is that which has been realized in the history of Europe for the last thirty years: and when we say that the people has almost every where grown too strong for their rulers, we mean only to say, that, in that period, there has been a prodigious development in the understanding and intelligence of the great mass of the population; and that this makes them much less willing to submit to the folly and corruption of most of their antient governments. The old instinctive feelings of loyalty and implicit obedience have pretty generally given way to shrewd calculations as to their own interests, their own powers, and the rights which arise out of these powers. They see now, pretty quickly, both the weaknesses and the vices of their rulers; and, having learned to refer their own sufferings or privations, with considerable sagacity, to their blunders and injustice, they begin tacitly to inquire, what right they have to a sovereignty, of which they make so bad a use, — and how they would protect themselves, if all who hate and despise them were to unite to take it from them. Sentiments of this sort, we are well assured, have been prevalent over all the enlightened parts of Europe for the last thirty years, and are every day gaining strength and popularity. Kings and nobles, and ministers and agents of government, are no longer looked upon with veneration and awe, — but rather with a mixture of contempt and jealousy. Their errors and vices are canvassed, among all ranks of persons, with extreme freedom and severity. The corruptions by which they seek to fortify themselves, are regarded with indignation and vindictive abhorrence; and the excuses, with which they palliate them, with disgust and derision. Their deceptions are almost universally seen through; and their incapacity detected and despised by an unprecedented portion of the whole population which they govern.

It is in this sense, as we conceive it, that the people throughout civilized



Europe have grown too strong for their rulers; and that *some* alteration in the balance or administration of their governments has become necessary for their preservation. They have become too strong, — not in wealth, — but in *intellect*, activity, and available numbers; and the tranquillity of their governments has been endangered, not from their want of pecuniary influence, but from their want of moral respectability and intellectual vigour.

Such is the true state of the evil; and the cure, according to the English opponents of reform, is to increase the patronage of the crown! The remote and original cause of the danger, is the improved intelligence, and more perfect intercourse of the people, — a cause which it is not lawful to wish removed, and which, at any rate, the proposed remedy has no tendency to remove. The immediate and proximate cause, is the corruption of the government; and the cure that is seriously recommended, is to increase that corruption! — to add to the weight of the burdens under which the people is sinking, — and to multiply the examples of partiality, profusion, and profligacy, by which they are revolted!

An absurdity so extravagant, however, could not have suggested itself, even to the persons by whom it has been so triumphantly recommended, unless it had been palliated by some colour of plausibility; and their error (which really does not seem very unnatural for men of their description) seems to have consisted merely in supposing that *all* those who were discontented in the country, were disappointed candidates for place and profit; and that the whole clamour which had been raised against the misgovernment of the modern world, originated in a violent desire to participate in the emoluments of that misgovernment. Upon this supposition, it will immediately be seen, that their remedy was most judiciously devised. — All the discontent was among those who wanted to be bribed — all the clamour among those who were impatient for preferment. Increase the patronage of the Crown therefore — make more sinecures, more jobs, more nominal and real posts of emolument and honour, — and you will allay the discontent, and still the clamour, which are now ‘frighting our isle from her propriety!’

This, to be sure, is very plausible and ingenious — as well as highly creditable to the honour of the nation, and the moral *experience* of its contrivers. But the fact, unfortunately, is quite different. There are *two* sets of persons to be managed and appeased; and the misfortune is, that what would gratify the one, will only exasperate the discontents of the other. The one wants unmerited honours, and unearned emoluments — a further abuse of patronage — a more shameful misapplication of the means of the nation. The other wants a correction of abuses — an abridgment of patronage — a diminution of the public burdens — a more just distribution of its trusts, dignities, and rewards. This last party is by far the strongest, and the most formidable; for it is daily recruited out of the mass of the population, over which reason is daily extending her dominion; and depends, for its ultimate success, upon nothing less than the irresistible progress of intelligence — of a true and enlightened sense of interest — and a feeling of inherent right united to undoubted power. It is difficult, then, to doubt of its ultimate triumph; and it must appear to be infinitely foolish to think of opposing its progress by measures which are directly calculated to add to its strength. By increasing the patronage or influence of the crown, a few more venal spirits may be attracted, by the precarious tie



of a dishonest interest, to withstand all attempts at reform, and to clamour in behalf of all existing practices and institutions. But, for every worthless auxiliary that is thus recruited for the defence of established abuses, is it not evident that there will be a thousand new enemies called forth by the additional abuse exemplified in the new patronage that is created, and the new scene of corruption that is exhibited, in exchanging this patronage for this dishonourable support? — For a nation to endeavour to strengthen itself against the attempts of reformers by a deliberate augmentation of its corruptions, is not more politic, than for a spendthrift to think of relieving himself of his debts by borrowing at usurious interest to pay what is demanded, and thus increasing the burden which he affects to be throwing off.

The only formidable discontent, in short, that now subsists in the country, is that of those who are *reasonably discontented*; and the only part of the people whose growing strength really looks menacingly on the government, is that which has been alienated by its corruptions, and enabled, by its own improving intelligence, to unmask its deceptions, and to discover the secret of its selfishness and incapacity. The great object of its jealousy is the enormous influence of the crown, and the monstrous abuses of patronage to which that influence gives occasion. It is, therefore, of all infatuations the wildest and most desperate, to hold out that the progress of this discontent makes it proper to give the crown more influence, and that it can only be effectually conciliated by putting more patronage in the way of abuse.

In stating the evils and dangers of corruption and profligacy in a government, we must always keep it in view, that such a system can never be *universally* palatable, even among the basest and most depraved people of which history has preserved any memorial. If this were otherwise, indeed — if a whole nation were utterly and entirely venal and corrupt, and each willing to wait his time of dishonourable promotion, things might go on with sufficient smoothness at least; and as such a nation would not be worth mending, on the one hand, so there would, in fact, be much less need, on the other, for that untoward operation. The supposition, however, is obviously impossible; and, in such a country at least as England, it may perhaps be truly stated, as the most alarming consequence of corruption, that if allowed to go on without any effectual check, it will infallibly generate such a spirit of discontent, as necessarily to bring on some dreadful convulsion, and overturn the very foundations of the constitution. It is thus fraught with a *double* evil to a country enjoying a free government. In the first place, it gradually corrodes and destroys almost all that is free or valuable in its constitution; and, secondly, it ensures its ultimate subversion by the tremendous crash of an insurrection or revolution. It first makes the government oppressive and intolerable; and then it oversets it altogether by a necessary, but dreadful calamity.

These two evils may appear to be opposite to each other; and it is certain, that, though brought on by the same course of conduct, they cannot be inflicted by the same set of persons. Those who are the slaves and the ministers of corruption, cannot be those who crush it, with a visiting vengeance, under the ruins of the social order; and it is in forgetting that there are two sets of persons to be conciliated in all such questions, that the portentous fallacy which we are considering mainly consists. The government may be very corrupt, and a very considerable part of the nation may be debased and venal, while there

is still spirit and virtue enough left, when the measure of provocation is full, to inflict a signal and sanguinary vengeance, and utterly to overthrow the fabric which has been defiled by this traffic of iniquity. And there may be great spirit, and strength, and capacity of heroic resentment in a nation, which will yet allow its institutions to be perverted, its legislature to be polluted, and the leading part of its population to be corrupted, before it be roused to that desperate effort, in which its peace and happiness are sure to suffer along with the guilt which brings down the thunder. In such an age of the world as the present, however, it may be looked upon as absolutely certain, that if the guilt be persisted in, the vengeance will follow; and that all *reasonable* discontent will accumulate and gain strength, as reason and experience advance; till, at the last, it works its own reparation, and sweeps the offence from the earth with the force and the fury of a whirlwind.

In such a view of the moral destiny of nations, there is something elevating as well as terrible. Yet, the terror preponderates for those who are to witness the catastrophe: and all reason, as well as all humanity, urges us to use every effort to avoid the crisis and the shock, by a timely reformation, and an earnest and sincere attempt to conciliate the hostile elements of our society, by mutual concession and indulgence.—It is for this reason, chiefly, that we feel such extreme solicitude for a legislative reform of our system of representation,—in some degree as a pledge of the willingness of the government to admit of reform where it is requisite; but chiefly, no doubt, as in itself most likely to stay the flood of venality and corruption,—to reclaim a part of those who had begun to yield to its seductions,—and to reconcile those to the government and constitution of their country, who had begun to look upon it with a mingled feeling of contempt, hostility, and despair. That such a reform as we have contemplated, in the earlier part of these observations, would go far to produce those happy effects, we think must appear evident to all who agree with us as to the nature and origin of the evils from which we now suffer. One of its chief advantages, however, will consist in its relieving and abating the spirit of discontent which is generated by the spectacle of our present corruptions, both by giving it scope and vent, and by the vast facilities it must afford to its labours of regeneration. By the extension of the elective franchise, many of those who are most hostile to the existing system, because, under it, they are excluded from all share of power or political importance, will have a part assigned them, both more safe and more active, than murmuring, or meditating vengeance against such a scheme of exclusion. The influence of such men will be usefully exerted in exciting a popular spirit, and in exposing the base and dishonest practices that may still interfere with the freedom of election. By some alteration in the borough qualifications, the body of electors in general will be invested with a more respectable character, and feel a greater jealousy of every thing that may tend to degrade or dishonour them: but, above all, the exclusion of a great body of placemen from the legislature, by cutting off a great part of the minister's most profitable harvest of corruption, will force his party also to have recourse to more honourable means of popularity, and to appeal to principles that must ultimately promote the cause of independence.

By the introduction, in short, of a system of reform, even more moderate and cautious than that which we have ventured to indi-



cate, we think that a wholesome and legitimate play will be given to those principles of opposition to corruption, monopoly and abuse, which, by the denial of all reform, are in danger of being fomented into a decided spirit of hostility to the government and the institutions of the country. Instead of brooding, in sullen and helpless silence, over the vices and errors which are ripening into intolerable evil, and seeing, with a stern and vindictive joy, wrong accumulated to wrong, and corruption heaped up to corruption, it will be continually interfering, with active and successful zeal, to correct, restrain and deter. Instead of being the avenger of our murdered liberties, it will be their living protector; and the censor, not the executioner, of the constitution. It will not descend, only at long intervals, like the Avatar of the Indian mythology, to expiate, with terrible vengeance, a long series of consummated crimes; but, like the Providence of a better faith, will keep watch perpetually over the actions of corrigible men, and bring them back from their aberrations, by merciful chastisement, timely admonition, and the blessed experience of purer principles of action.

Such, according to our conviction of the fact, is the true state of the case as to the increasing weight and consequence of the people; and such the nature of the policy which we think this change in the structure of our society calls upon us to adopt. The people are grown strong in intellect, resolution, and mutual reliance,—quick in the detection of the abuses by which they are wronged, and confident in the powers by which they may be compelled ultimately to seek their redress. Against *this* strength, it is something more wild than madness, and more contemptible than folly, to think of arraying an additional phalanx of abuses, and drawing out a wider range of corruptions. In *that* contest, the issue cannot be doubtful, nor the conflict long; and, deplorable as the victory will be, which is gained over order, as well as over guilt, the blame will rest heaviest upon those whose offences first provoked, what may very probably turn out a sanguinary and an unjustifiable vengeance.

The conclusions, then, which we would draw from the facts that have been relied on by the enemies of reform, are indeed of a very opposite description; and the course which is pointed out by these new circumstances in our situation, appears to us no less obvious, than it is safe and promising. If the people have risen into greater consequence, let them have greater power. If a greater proportion of our population be now capable and desirous of exercising the functions of free citizens, let a greater number be admitted to the exercise of these functions. If the quantity of mind and of will, that must now be represented in our legislature, be prodigiously increased since the frame of that legislature was adjusted, let its basis be widened, so as to rest on all that intellect and will. If there be a new power and energy generated in the nation, for the due application of which there is no contrivance in the original plan of the constitution, let it flow into those channels through which all similar powers were ordained to act by the principles of that plan. The power itself you can neither repress nor annihilate; and, if it be not assimilated to the system of the constitution, you seem to be aware that it will overwhelm and destroy it. To set up against it the power of influence and corruption, is to set up that by which its strength is recruited, and its safe application rendered infinitely more difficult; it is to defend your estab-



lishments, by loading them with a weight which of itself makes them totter under its pressure, and, at the same time, affords a safe and inviting approach to the assailant.

In our own case, too, nothing fortunately is easier than to reduce this growing power of the people within the legitimate bounds and cantonments of the constitution; and nothing more obvious than that, when so legalized and provided for, it can tend only to the exaltation and improvement of our condition, and must add strength and stability to the throne, as well as to the other branches of the legislature. It seems a strange doctrine to be held by any one in this land, and, above all, by the chief votaries and advocates of royal power, that its legal security consists in its means of corruption, or can be endangered by the utmost freedom and intelligence in the body of the people, and the utmost purity and popularity of our elections — so long as the powers and privileges of the three branches of the legislature are kept unconfounded and entire. The only use of influence, in the hands of the government, is to soften the exercise of its legitimate power, and to prevent the shock of a naked collision between the prerogative and the controlling principles of the constitution. But the prerogative itself is the measure and the ultimate support of the legal authority; and a government by influence, is necessarily the government of a faction which has made itself illegally independent both of the sovereign and of the people. Under an arbitrary government, where the powers of the monarch are confessedly unjust and oppressive, and are claimed, and openly asserted, not as the instruments of public benefit, but as the means of individual gratification, such a jealousy of popular independence is sufficiently intelligible: but, in a government like ours, where all the powers of the Crown are universally acknowledged to exist for the good of the people, it is evidently quite extravagant to fear, that any increase of union and intelligence — any growing love of freedom and justice in the people — should endanger, or should fail to confirm, all those powers and prerogatives.

We have not left ourselves room to enter more at large into this interesting question; but we feel perfectly assured, and ready to maintain, that, as the institution of a limited, hereditary monarchy, must always appear the wisest and most reasonable of all human institutions, and that to which increasing reflection and experience will infallibly attach men more and more as the world advances; so, the prerogatives of such a monarch will always be safer and more inviolate, the more the sentiment of liberty, and the love of their political rights, is diffused and encouraged among his people. A legitimate sovereign, in short, who reigns by the fair exercise of his prerogative, can have no enemies among the lovers of regulated freedom; and the hostility of such men — by far the most terrible of all internal hostility — can only be directed towards him, when his throne is enveloped, by treacherous advisers, with the hosts of corruption; and disguised, for their ends, in the borrowed colours of tyranny.

We now close these loose and miscellaneous observations; in which it has been our object rather to obviate the general prejudices which stand in the way of a practical reform, than to unfold the details of any scheme which may be proposed for its accomplishment; — rather to combat *the spirit* by which the most common objections to that great measure are suggested, than to dissect and refute the objections themselves, in a regular and systematical argument. — In looking



back upon what we have written, we confess we do not see any thing to which the appellation, either of Jacobin or of Utopian, can be applied; and, while we conceive it to be of the utmost importance that the fundamental and preliminary views which we have here ventured to take of these great questions, should be rendered familiar to the understandings of all who may be called on to take any part, however humble, in public life, we willingly renew our pledge, never to lose sight of this interesting topic, and never to remit our endeavours to direct the attention of the public to a subject in which they are more interested than in any other, and on which, if they think at all, it is scarcely possible that they should either think wrong, or fail to realize what they have deliberately approved.

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### ANNUAL PARLIAMENTS, UNIVERSAL SUFFRAGE, AND THE VOTE BY BALLOT.\*

As we address ourselves to reasonable minds, in the hope of removing or preventing error, we shall endeavour to do so, in a perfectly dispassionate tone. Of Universal Suffrage itself we must speak frankly,—firmly believing, that the adherence of any considerable body of the people to it, as a measure of Reform, tends to make reformation impossible, and liberty itself odious and terrible; to raise up a subject of difference between the higher and lower classes, about which no concessions and no treaty are practicable; and ultimately to drive the nation to seek refuge in absolute government. The falsehood of the doctrine which represents Annual Parliaments and Universal Suffrage as the antient legal right of the people of England, has already been proved by historical demonstration.† At all events, the dispute must finally be decided by the principle of utility; for though men should have a right to Universal Suffrage, it is evident that they ought to waive its exercise, if it cannot be exerted without mischief to ourselves; and though our antient laws should have established Universal Suffrage, it is equally certain that it ought not to be revived, if its revival would injure society.

Before we enter on the argument, we wish to waive all advantage which may be supposed to be possessed by those who defend established principles against untried projects. We shall compare different plans of representation, as if they were for the first time presented to the judgment and choice of a nation, borrowing no aid from the established system but the experience with which it has supplied us. For that reason we forbear to employ those arguments which have been founded on the supposed tendency of Universal Suffrage to destroy the regal and aristocratical parts of the Constitution. The question which we are desirous of considering is, *whether it would be conducive to the liberties of the people.*

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\* Plan of Parliamentary Reform, in the Form of a Catechism; with Reasons for each Article: with an Introduction, showing the Necessity of Radical, and the Inadequacy of Moderate, Reform. By Jeremy Bentham, Esq.—Vol. xxxi. p. 165. December, 1818.

† See a conclusive Essay on this subject, vol. xxviii. p. 126.

What mode of representation is most likely to secure the liberty, and consequently the happiness, of a community circumstanced like the people of Great Britain?—On the elementary part of this great question, it will be sufficient to remind the reader of a few undisputed truths.—The object of Government is security against wrong. Most civilized governments tolerably secure their subjects against wrong from each other. But to secure them, by laws, against wrong from the Government itself, is a problem of a far more difficult sort, which few nations have attempted to solve,—and of which it is not so much as pretended that, since the beginning of History, more than one or two great states have approached the solution.

It will be universally acknowledged, that this approximation has never been effected by any other means than that of a Legislative Assembly, chosen by some considerable portion of the People. The direct object of a popular representation is, that one, at least, of the bodies exercising the Legislative Power being dependent on the people by election, should have the strongest inducement to guard the interests and to maintain the rights of the people.

For this purpose, it is not sufficient that they should have the same general interests with the people; for every government has, in truth, the same interests with its subjects. It is necessary, that the more direct and palpable interest, arising from election, should be super-added. In every legislative senate the modes of appointment ought to be such as to secure the nomination of members the best qualified, and the most disposed, to make laws conducive to the wellbeing of the whole community. In a Representative assembly this condition, though absolutely necessary, is not of itself sufficient. To understand the principles of its composition thoroughly, we must divide the people into classes, and examine the variety of local and professional interests of which the general interest is composed. Each of these classes must be represented by persons who will guard its peculiar interest, whether that interest arises from inhabiting the same district, or pursuing the same occupation,—such as traffic or husbandry, or the useful or ornamental arts. The fidelity and zeal of such representatives are to be secured by every provision, which, to a sense of common interest, can superadd a fellow-feeling with their constituents. Nor is this all.—In a great State, even that part of the public interest, which is common to all classes, is composed of a great variety of branches. A statesman should, indeed, have a comprehensive view of the whole: but no one man can be skilled in all their particulars. The same education, and the same pursuits, which qualify men to understand and regulate some branches, disqualify them for others. The Representative assembly must therefore contain,—some members peculiarly qualified for discussions of the Constitution and the Laws, others for those of Foreign Policy;—some for the respective interests of Agriculture, Commerce, and Manufactures;—some for Military affairs by sea and land, and some also who are conversant with the colonies and distant possessions of a great empire. It would be a mistake to suppose that the place of such representatives could be supplied by witnesses examined on each particular subject. Both are not more than sufficient,—skilful witnesses occasionally, for the most minute information,—skilful representatives continually, to discover and conduct evidence, to enforce and illustrate the matters belonging



to their department with the weight of those who speak on a footing of equality.

It is obvious, that as long as this composition is insured, it is for the present purpose a matter of secondary importance, whether it be effected by direct or indirect means. To be a faithful representative, it is necessary that such an assembly should be numerous; that it should learn, from experience, the movements that agitate multitudes; and that it should be susceptible, in no small degree, of the action of those causes which sway the thoughts and feelings of assemblies of the people. For the same reason, among others, it is expedient that its proceedings should be public; and the reasonings on which they are founded submitted to the judgment of mankind. These democratical elements are indeed to be tempered and restrained by such contrivances as may be necessary to maintain the order and independence of deliberation: but, without them, no assembly, however elected, can truly represent a people.

Among the objects of representation, two may, in an especial manner, deserve observation:—the qualifications for making good laws, and those for resisting oppression. Now, the capacity of an assembly to make good laws evidently depends on the quantity of skill and information of every kind which it possesses. But it seems to be advantageous that it should contain a large proportion of one body of a more neutral and inactive character,—not, indeed, to propose much, but to mediate or arbitrate in the differences between the more busy classes, from whom important propositions are to be expected. The suggestions of every man relating to his province have, doubtless, a peculiar value: but most men imbibe prejudices with their knowledge; and, in the struggle of various classes for their conflicting interests, the best chance for an approach to right decision lies in an appeal to the largest body of well-educated men, of leisure, large property, temperate character, and who are impartial on more subjects than any other class of men. An ascendancy, therefore, of landed proprietors must be considered, on the whole, as a beneficial circumstance in a representative body.

For resistance to oppression, it is peculiarly necessary that the lower, and, in some places, the lowest classes should possess the right of suffrage. Their rights would otherwise be less protected than those of any other class; for some individuals of every other class would generally find admittance into the Legislature; or, at least, there is no other class which is not connected with some of its members. Some sameness of interest, and some fellow-feeling, would therefore protect every other class, even if not directly represented. But in the uneducated classes none can either sit in a representative assembly, or be connected on an equal footing with its members. The right of suffrage, therefore, is the only means by which they can make their voice heard in its deliberations. They also often send to a representative assembly members whose character is an important element in its composition. Men of popular talents, principles, and feelings; quick in suspecting oppression; bold in resisting it; not thinking favourably of the powerful; listening, almost with credulity, to the complaints of the humble and the feeble; and impelled by ambition, where they are not prompted by generosity, to be the champions of the defenceless. It is nothing to say, that such men require to be checked and restrained by others of a different character. This may be truly said of every other class.



It is to no purpose to observe, that an assembly exclusively composed of them would be ill fitted for the duties of legislation. For the same observation would be perfectly applicable to any other of those bodies which make useful parts of a mixed and various assembly.

In all political institutions, it is a fortunate circumstance, when legal power is bestowed on those who already possess a natural influence and ascendant over their fellow-citizens. Wherever, indeed, the circumstances of society, and the appointments of law, are in this respect completely at variance, submission can hardly be maintained without the odious and precarious means of force and fear. Where law and nature coincide, government is most secure, and the people may be most free. But in a representative assembly, which exercises directly no power, and of which the members are too numerous to derive much individual consequence from their stations, the security and importance of the body, more than in any other case, depend on the natural influence of those who compose it. In this respect, talent and skill, besides their direct utility, have a secondary value of no small importance. Together with the other circumstances which command respect or attachment among men — with popularity, with fame, with property, with liberal education and condition — they form a body of strength, which no law could give or take away. As far as an assembly is deprived of any of these natural principles of authority, so far it is weakened, both for the purpose of resisting the usurpations of government, and of maintaining the order of society.

An Elective system tends also, in other material respects, to secure that free government, of which it is the most essential member. As it calls some of almost every class of men to share in legislative power, and many of all classes to exercise the highest franchises, it engages the pride, the honour, and the private interest, as well as the generosity, of every part of the community, in defence of the Constitution. Every noble sentiment, every reasonable consideration, every petty vanity, and every contemptible folly are made to contribute towards its security. The performance of some of its functions becomes part of the ordinary habits of bodies of men numerous enough to spread their feelings over great part of a nation.

Popular representation thus, in various ways, tends to make governments good, and to make good governments secure. — These are its primary advantages. But free, that is, just governments, tend to make men more intelligent, more honest, more brave, more generous. Liberty is the parent of genius, the nurse of reason, the inspirer of that valour which makes nations secure and powerful; the incentive to that activity and enterprise to which they owe wealth and splendour; the school of those principles of humanity and justice which bestow an unspeakably greater happiness than any of the outward advantages of which they are the chief sources and the sole guardians.

These effects of free government on the character of a people may, in one sense, be called indirect and secondary; but they are not the less to be considered as among its greatest blessings: and it is scarcely necessary to observe, how much they tend to enlarge and secure the liberty from which they spring. But their effect will, perhaps, be better shown by a more particular view of the influence of popular elections on the character of the different classes of the community.

To begin with the higher classes. — The English Nobility, who are blended with the gentry by imperceptible shades, are the most opulent



and powerful order of men in Europe. They are comparatively a small body, who unite great legal privileges with ample possessions, and names both of recent renown and historical glory. They have attained almost all the objects of human pursuit. They are surrounded with every circumstance which might seem likely to fill them with arrogance, to teach them to scorn their inferiors,—and might naturally be supposed to extinguish enterprise, and to lull every power of the understanding to sleep. What has preserved their character?—what makes them capable of serving or adorning their country as orators and poets, men of letters and men of business, in as great a proportion as in any equal number of the best educated classes of their countrymen? Surely only one solution can be given of these phenomena, peculiar to our own country.\* Where all the ordinary incentives to action are withdrawn, a free constitution excites it, by presenting Political Power as a new object of pursuit. By rendering that power in a great degree dependent on popular favour, it compels the highest to treat their fellow-creatures with decency and courtesy; and disposes the best of them to feel, that inferiors in station may be superiors in worth, as they are equals in right. Hence chiefly arises that useful preference for country life which distinguishes the English gentry from that of other nations. In despotic countries they flock to the Court, where all their hopes are fixed. But here, as they have much to hope from the people, they must cultivate the esteem, and even court the favour, of their own natural dependants. They are quickened in the pursuit of ambition, by the rivalry of that enterprising talent, which is stimulated by more urgent motives. These dispositions and manners have become, in some measure, independent of the causes which originally produced them, and extend to many on whom these causes could have little operation. In a great body, we must allow for every variety of form and degree. It is sufficient that a system of extensive popular representation has, in a course of time, produced this general character, and that the English Democracy is the true preservative of the talents and virtues of the Aristocracy.

The effects of the Elective franchise upon the humbler classes are, if possible, still more obvious and important. By it the peasant is taught to ‘venerate himself as man;’ to employ his thoughts, at least occasionally, upon high matters; to meditate on the same subjects with the wise and the great; to enlarge his feelings beyond the circle of his narrow concerns; to sympathize, however irregularly, with great bodies of his fellow-creatures; and sometimes to do acts which he may regard as contributing directly to the welfare of his country. Much of this good tendency is doubtless counteracted by other circumstances. The outward form is often ridiculous or odious. The judgments of the multitude are never exact, and their feelings often grossly misapplied: but, after all possible deductions, great benefits must remain. The important object is, that they should think and feel;—that they should

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\* To be quite correct, we must remind the reader, that we speak of the character of the whole body, composed, as it is, of a small number. In a body like the French noblesse, amounting perhaps to a hundred thousand, many of whom were acted upon by the strongest stimulants of necessity, and, in a country of such diffused intelligence as France, it would have been a miracle if many had not risen to eminence in the state and in letters, as well as in their natural profession of arms.



contemplate extensive consequences as capable of arising from their own actions, and thus gradually become conscious of the moral dignity of their nature. Among the very lowest classes, where the disorders of election are the most offensive, the moral importance of the Elective franchise is, in some respects, the greatest. As individuals, they feel themselves of no consequence;—hence, in part, arises their love of numerous assemblies, the only scenes in which the poor feel their importance. Brought together for elections, their tumultuary disposition, which is little else than a desire to display their short-lived consequence, is gratified at the expense of inconsiderable evils. It is useful that the pride of the highest should be made occasionally to bend before them; that the greatest objects of ambition should be partly at their disposal: it teaches them to feel that *they* also are men. It is to the exercise of this franchise, by some bodies of our lowest classes, that we are to ascribe that sense of equality,—that jealousy of right,—that grave independence, and calm pride, which has been observed by foreigners as marking the deportment of Englishmen.

By thus laying open some of the particular modes in which representation produces its advantages to the whole community, and to its separate classes, we hope that we have contributed somewhat to the right decision of the practical question which now presents itself to our view. Systems of election may be of very various kinds. The right of suffrage may be limited, or universal; it may be secretly, or openly exercised; the representatives may be directly, or indirectly, chosen by the people; and where a qualification is necessary, it may be uniform, or it may vary in different places. A variety of rights of suffrage is the principle of the English representation. In the reign of Edward the First, as much as in the present moment, the Members for counties were chosen by freeholders, and those for cities and towns by freemen, burgage tenants, householders, or freeholders. Now, we prefer this general principle of our representation to any uniform right of suffrage; though we think that, in the present state of things, there are many particulars which, according to that principle, ought to be amended. Our reasons for this preference are shortly these:—Every uniform system, which seriously differs from universal suffrage, must be founded on such a qualification as to take away the Elective franchise from those portions of the inferior classes who now enjoy it. Even the condition of paying direct taxes would disfranchise many. The only reasonable ground, on which an uniform qualification of property could be founded, would be its tendency to secure the independence of the voter; but it is evident that such a principle, if pursued to its proper consequences, would disfranchise great multitudes of the present electors. After what we have already said on the general subject of representation, it is needless for us to add, that we should consider such a disfranchisement as a most pernicious mutilation of the representative system. It has already been seen, how much, in our opinion, the proper composition of the House of Commons, the justice of the government, and the morality of the people, depend upon the elections which would be thus sacrificed.

This tendency of an uniform qualification is visible in the new French system. The qualification for the electors is the annual payment of direct taxes to the amount of about 12*l*. When the wealth of the two countries is compared, it will be apparent that, in this country, such a system would be thought a mere aristocracy. In France, the result



is a body of 100,000 electors \*; and in the situation and temper of the French nation, such a scheme of representation may be eligible. But we mention it only as an example, that every uniform qualification, which is not altogether illusory, must incline towards independent property, as being the only ground on which it can rest. The reform of Cromwell had the same aristocratical character, though in a far less degree. It nearly excluded what is called the populace; and, for that reason, is commended by the most sagacious† of our Tory writers. An uniform qualification, in short, must be so high as to exclude true popular election, or so low as to be liable to most of the objections which we shall presently offer against Universal Suffrage. It seems difficult to conceive how it could be so adjusted, as not either to impair the spirit of liberty, or to expose the quiet of society to continual hazard.

Our next objection to uniformity is, that it exposes the difference between the proprietors and the indigent, in a way offensive and degrading to the feelings of the latter. The difference itself is indeed real, and cannot be removed; but, in our present system, it is disguised under a great variety of usages. It is far from uniformly regulating the franchise, and, even where it does, this invidious distinction is not held out in its naked form. No broad line of demarcation is drawn between the electors and the non-electors, disposing them to mutual animosity, and either degrading the latter class, or provoking them to dangerous excesses. It is something, also, that the system of various rights does not constantly thrust forward that qualification of property, which, in its undisguised state, may be thought to teach the people too exclusive a regard for wealth.

This variety, by giving a very great weight to property in some elections, enables us safely to allow an almost unbounded scope to popular feeling in others. While some have fallen under the influence of a few great proprietors, others border on universal suffrage. All the intermediate varieties, and all their possible combinations, find their place. Let the reader seriously reflect how all the sorts of men, who are necessary component parts of a good House of Commons, could on any other scheme find their way to it. We have already sufficiently animadverted on the mischief of excluding popular leaders. Would there be no mischief in excluding those important classes of men, whose character unfits them for success in a canvass, or whose fortune may be unequal to the expense of a contest? A representative assembly, elected by a low uniform qualification, would fluctuate between country gentlemen and demagogues. Elected on a high qualification, it would probably exhibit an unequal contest between landholders and courtiers. All other interests would, on either system, be unprotected. No other class would contribute its contingent of skill and knowledge to aid the deliberations of the Legislature.

The founders of new commonwealths must, we confess, act upon some uniform principle. A builder can seldom imitate, with success, all the fantastic but picturesque and comfortable irregularities of an old mansion, which through a course of ages has been repaired, enlarged, and altered, according to the pleasure of various owners.

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\* The population of France is now estimated at twenty-nine millions and a half.

† Clarendon, Hume, &c.



This is one of the many disadvantages attendant on the lawgivers of infant states. Something, perhaps, by great skill and caution, they might do; but their wisdom is most shown, after guarding the great principles of Liberty, by leaving time to do the rest.

Though we are satisfied, by the above and by many other considerations, that we ought not to exchange our diversified elections for any general qualification, we certainly consider Universal Suffrage as beyond calculation more mischievous than any other uniform right. The reasons which make it important to liberty, that the elective franchise should be exercised by large bodies of the lower classes, do not in the least degree require that it should be conferred on them all. It is necessary to their security from oppression, that the whole class should have some representatives; but as their interest is everywhere the same, representatives elected by one body of them are necessarily the guardians of the rights of all. The great object of representation for them is to be protected against violence and cruelty. Sympathy with suffering, and indignation against cruelty, are easily excited in numerous assemblies, and must either be felt or assumed by all their members. Popular elections generally ensure the return of some men, who shrink from no appeal, however invidious, on behalf of the oppressed. We must again repeat, that we consider such men as invaluable members of a House of Commons; — perhaps their number is at present too small. What we now maintain is, that, though elected by one place, they are, in truth, the representatives of the same sort of people in other places. Their number must be limited, unless we are willing to exclude other interests, and to sacrifice other most important objects of representation.

The exercise of the Elective franchise by some of the laborious classes betters the character, raises the spirit, and enhances the consequence of all. An English farmer or artisan is more high-spirited and independent than the same classes in despotic countries; but nobody has ever observed that there is in England a like difference between the husbandman and mechanic — who have votes, and who have not. The exclusion of the class degrades the whole; but the admission of a part bestows on the whole a sense of importance, and a hold on the estimation of their superiors. It must be admitted, that a small infusion of popular election would not produce these effects. Whatever might seem to be the accidental privilege of a few would have no influence on the rank of their fellows. It must be considerable, — and, what is perhaps still more necessary, it must be conspicuous, — and forced on the attention by the circumstances which excite the feelings and strike the imagination of mankind. The value of external dignity is not altogether confined to kings or senates. The people also have their majesty; and they too ought to display their importance in the exercise of their rights.

It is said, says Mr. Horne Tooke in his Letter to Lord Ashburton —

‘ That “ the all of one man is as dear to him as the all of another man is to that other.” But, my Lord, this maxim will not hold by any means; for a small all is not, for very good reasons, so dear as a great all. A small all may be lost and easily regained; it may very often, and with great wisdom, be risked for the chance of a greater; it may be so small, as to be little or not at all worth defending or caring for. *Ibit eo qui zonam perdidit.* But a large all can never be recovered: it has been amassing and accumulating, perhaps, from father to son for many generations; or it has been the product of a



‘ long life of industry and talents ; or the consequence of some circumstance which will never return. But I am sure I need not dwell upon this. Without placing the extremes of fortune in array against each other, every man, whose all has varied at different periods of his life, can speak for himself, and say, whether the dearness in which he held these different alls was equal. The lowest order of men consume their all daily, as fast as they acquire it.

‘ My Lord, justice and policy require that benefit and burthen, that the share of power, and the share of contribution to that power, should be as nearly proportioned as possible. If aristocracy will have all power, they are tyrants, and unjust to the people ; because aristocracy alone does not bear the whole burthen. If the smallest individual of the people contends to be equal in power to the greatest individual, he too is, in his turn, unjust in his demands ; for his burthen and contribution are not equal.

‘ Hitherto, my Lord, I have only argued against the *equality* ; — I shall now venture to speak against the *universality* of representation, or of a share in the government ; for the terms amount to the same. Freedom and security ought surely to be equal and universal. But, my Lord, I am not at all backward to contend, that some of the members of a society may be *free* and *secure* without having a share in the government. The happiness, and freedom, and security of the whole, may even be advanced by the exclusion of some, not from freedom and security, but from a share in the government. My Lord, extreme misery, extreme dependence, extreme ignorance, extreme selfishness (I mean that mistaken selfishness which excludes all public sense), all these are just and proper causes of exclusion from a share in the government, as well as extreme criminality, which is admitted to exclude ; for thither they all tend, and there they frequently finish.’

The question is, whether all interests will be best protected, where the representatives are chosen by all men, — or where they are elected by considerable portions only of all classes of men. This question will, perhaps, be more clearly answered by setting out from examples than from general reasonings. If we suppose Ireland to be an independent state, governed by its former House of Commons, it will at once be admitted, that no shadow of just government existed, where the Legislature were the enemies, instead of being the protectors of the Catholics, who formed a great class in the community. That this evil was most cruelly aggravated by the numbers of the oppressed is true. But will it be contended, that such a government was unjust, only because the Catholics were a majority ? We have only then to suppose the case reversed, — that the Catholics were to assume the whole power, and to retaliate upon the Protestants, by excluding them from all political privilege. Would this be a just or equal government ? That will hardly be avowed. But what would be the effect of establishing Universal Suffrage in Ireland ? It would be, to do that in substance which no man would propose in form. The Catholics, forming four-fifths of the population, would, as far as depends on laws, possess the whole authority of the State. Such a government, instead of protecting all interests, would be founded in hostility to that which is the second interest in numbers, and in many respects the first. The oppressors and the oppressed would, indeed, change places. We should have Catholic tyrants, and Protestant slaves : — but our only consola-



tion would be, that the island would contain more tyrants, and fewer slaves.

If there be persons who believe that majorities have any power over the eternal principles of justice, or that numbers can in the least degree affect the difference between right and wrong, it would be vain for us to argue against those with whom we have no principles in common. To all others it must be apparent, that a representation of *classes* might possibly be so framed as to secure both interests; but that a representation of numbers must enslave the Protestant minority. That the majority of a people may be a tyrant as much as one or a few, is most apparent in the cases where a state is divided, by conspicuous marks, into a permanent majority and minority. Till the principles of Toleration be universally felt, as well as acknowledged, Religion will form one of these cases. Till reason and morality be far more widely diffused than they are, the outward distinctions of colour and feature will form another, more pernicious, and less capable of remedy. Does any man doubt, that the establishment of Universal Suffrage among emancipated slaves would be only another word for the oppression, if not the destruction, of their former masters? But is slavery itself really more unjust, where the slaves are a majority, than where they are a minority? or may it not be said, on the contrary, that to hold men in slavery is most inexcusable, where society is not built on that unfortunate foundation, where the supposed loss of their labour would be an inconsiderable evil, and where no danger could be pretended from their manumission? Is it not apparent, that the lower the right of suffrage descends in a country where the whites are the majority, the more cruel would be the oppression of the enslaved minority? An aristocratical legislature might consider, with some impartiality, the disputes of the free and of the servile labourers; but a body, influenced chiefly by the first of these rival classes, must be the oppressors of the latter.

These, it may be said, are extreme cases:—they are selected for that reason. But the principle which they strikingly illustrate will, on a very little reflection, be found applicable, in some degree, to all communities of men.

The labouring classes are in every country a perpetual majority. The diffusion of education will doubtless raise their minds, and throw open prizes for the ambition of a few, which will spread both activity and content among the rest. But in the present state of the population and territory of European countries, the majority of men must earn their subsistence by daily labour. Notwithstanding local differences, persons in this situation have a general resemblance of character and sameness of interest. Their interest, or what they think their interest, may be at variance with the real or supposed interests of the higher orders. If they are considered as forming, in this respect, one class of society, a share in representation may be allotted to them, sufficient to protect their interest, compatible with the equal protection of the interests of all other classes, and regulated by a due regard to all the qualities which are required in a well-composed legislative assembly. But, if representation be proportioned to numbers alone, every other interest in society is placed at the disposal of the multitude. No other class can be effectually represented; no other class can have a political security for justice; no other can have any weight in the deliberations of the Legislature. No talents, no attainments, but such as recommend



men to the favour of the multitude, can have any admission into it. A representation so constituted would produce the same practical effects as if every man, whose income was above a certain amount, were excluded from the right of voting. It is of little moment to the proprietors whether they be disfranchised, or doomed, in every election, to form a hopeless minority.

Nor is this all. A representation founded on numbers only would be productive of gross inequality in that very class to which all others are sacrificed. The difference between the people of the country and those of towns is attended with consequences which no contrivance of law can obviate. Towns are the nursery of political feeling. The frequency of meeting, the warmth of discussion, the variety of pursuit, the rivalry of interest, the opportunities of information, even the fluctuations and extremes of fortune, direct the minds of their inhabitants to public concerns, and render them the seats of republican governments, or the preservers of liberty in monarchies. But if this difference be considerable among educated men, it seems immeasurable when we contemplate its effects on the more numerous classes. Among them, no strong public sentiment can be kept up without numerous meetings. It is chiefly when they are animated by a view of their own strength and numbers,—when they are stimulated by an eloquence suited to their character,—and when the passions of each are strengthened by the like emotions of the multitude which surround him, that the thoughts of such men are directed to subjects so far from their common callings as the concerns of the commonwealth. All these aids are necessarily wanting to the dispersed inhabitants of the country, whose frequent meetings are rendered impossible by distance and poverty, who have few opportunities of being excited by discussion or declamation, and very imperfect means of correspondence or concert with those at a distance.

An agricultural people is generally submissive to the laws, and observant of the ordinary duties of life,—but stationary and stagnant, without the enterprise which is the source of improvement, and the public spirit which preserves liberty. If the whole political power of the State, therefore, were thrown into the hands of the lowest classes, it would be really exercised only by the towns. About two-elevenths of the people of England inhabit towns which have a population of ten thousand souls or upwards. A body so large, strengthened by union, discipline, and spirit, would without difficulty dominate over the lifeless and scattered peasants. In towns, the lower part of the middle classes are sometimes tame; while the lowest class are always susceptible of animation. But the small freeholders, and considerable farmers, acquire an independence from their position, which makes them very capable of public spirit.—While the classes below them are incapable of being permanently rendered active elements in any political combination, the dead weight of their formal suffrages would only oppress the independent votes of their superiors. All active talent would, in such a case, fly to the towns, where alone its power could be felt. The choice of the country would be dictated by the cry of the towns, wherever it was thought worth while to take it from the quiet influence of the resident proprietors. The country itself would be divided into a number of provinces, dependent on the democracies of the towns. Perhaps the only contrivance, which can in any considerable degree remedy the political inferiority of the inha-



bitants of the country to those of towns has been adopted in the English Constitution, which, while it secures an ascendant of landholders in the Legislature, places the disposal of its most honoured and envied seats in the hands of the lowest classes among the agricultural population, who are capable of employing the right of suffrage with spirit and effect.

They who think representation chiefly valuable, because whole nations cannot meet to deliberate in one place, have formed a very low notion of this great improvement. It is not a contrivance for conveniently collecting or blindly executing all the pernicious and unjust resolutions of ignorant multitudes. To correct the faults of democratical government is a still more important object of representation, than to extend the sphere to which that government may be applied. It balances the power of the multitude by the influence of other classes ; it substitutes skilful lawgivers for those who are utterly incapable of any legislative function ; and it continues the trust long enough to guard the Legislature from the temporary delusions of the people. By a system of Universal Suffrage and Annual Elections, all these temperaments would be destroyed. The effect of crowded population, in increasing the intensity and activity of the political passions, is extremely accelerated in cities of the first class. The population of London and its environs is nearly equal to that of all other towns in England of or above ten thousand souls. According to the principle of Universal Suffrage, it would contain about two hundred and fifty thousand electors ; and send fifty-five members to Parliament. This electoral army would be occupied for the whole year in election or canvass, or in the endless animosities in which both would be fertile. A hundred candidates for their suffrages would be daily employed in inflaming their passions. No time for deliberation, — no interval of repose in which inflamed passions might subside, could exist. The representatives would naturally be the most daring, and, for their purposes, the ablest of their body. They must lead or overawe the Legislature. Every transient delusion or momentary phrensy of which a multitude is susceptible, must rush with unresisted violence into the representative body. Such a representation would differ in no beneficial respect from the wildest democracy. It would be democracy clothed in a specious disguise, and armed with more effective instruments of oppression, — but not wiser or more just than the democracies of old, which Hobbes called ‘ an *aristocracy* of orators, sometimes interrupted by the *monarchy* of a single orator.’

It may be said, that such reasonings suppose the absence of those moral restraints of property and opinion which would temper the exercise of this as well as of every other kind of suffrage. Landholders would still influence their tenants, farmers their labourers, artisans and manufacturers those whom they employ ; — property would still retain its power over those who depend on the proprietor.

To this statement we in some respects accede, and on it we build our last and most conclusive argument against Universal Suffrage. It is true, that in very quiet times a multiplication of dependent voters would only augment the influence of wealth. If votes were bestowed on every private soldier, the effect would be only to give a thousand votes to the commanding officer who marched his battalion to the poll. Whenever the people felt little interest in public affairs, the same power would be exercised by every master through his dependants.



The traders who employ many labourers in great cities would possess the highest power; — the great consumers and landholders would engross the remainder; — the rest of the people would be insignificant. As the multitude is composed of those individuals who are most incapable of fixed opinions, and as they are, in their collective capacity, peculiarly alive to present impulse, there is no vice to which they are so liable as inconstancy. Their passions are quickly worn out by their own violence. They become weary of the excesses into which they were plunged. Lassitude and indifference succeed to their fury, and are proportioned to its violence. They abandon public affairs to any hand disposed to guide them. They give up their favourite measures to reprobation, and their darling leaders to destruction. Their acclamations are often as loud around the scaffold of the demagogue, as around his triumphal car.

Under the Elective system, against which we now argue, the opposite evils of too much strengthening wealth, and too much subjecting property to the multitude, are likely, by turns, to prevail. In either case, it may be observed that the power of the middle classes would be annihilated. Society, on such a system, would exhibit a series of alternate fits of phrensy and lethargy. When the people were naturally disposed to violence, the mode of election would inflame it to madness. When they were too much inclined of themselves to listlessness and apathy, it would lull them to sleep. In these, as in every other respect, it is the reverse of a wisely-constituted representation, which is a restraint on the people in times of heat, and a stimulant to their sluggishness when they would otherwise fall into torpor. This even and steady interest in public concerns is impossible on a scheme which, in every case, would aggravate the predominant excess.

It must never be forgotten, that the whole proprietary body must be in a state of permanent conspiracy against an extreme democracy. They are the natural enemies of a constitution which grants them no power and no safety. Though property is often borne down by the torrent of popular tyranny, yet it has many chances of prevailing at last. Proprietors have steadiness, vigilance, concert, secrecy, and, if need be, dissimulation. They yield to the storm; — they regain their natural ascendant in the calm. Not content with persuading the people to submit to salutary restraints, they usually betray them, by insensible degrees, into absolute submission.

If the Commonwealth does not take this road to slavery, there are many paths that lead to that state of perdition. A Demagogue seizes on that despotic power for himself, which he for a long time had exercised in the name of his faction; a victorious General leads his army to enslave their country; and both these candidates for tyranny too often find auxiliaries in those classes of society who are at length brought to regard absolute monarchy as an asylum; for, wherever property is not allowed a great weight in a free state, it will destroy liberty. In either case, too, the inconstant rabble follow their leader with as loud acclamations to the Dictator's seat, as when he led them against the Senate. They delight in the power of him who seems to be their own work. The history of popular clamour, even in England, is enough to show that it is easy sometimes to work the populace into 'a sedition for slavery.'

These obvious consequences have disposed most advocates of Uni-



versal Suffrage to propose its combination with some other ingredients, by which, they tell us, that the poison will be converted into a remedy. The composition now most in vogue is its union with a Ballot. Before we proceed to the consideration of that proposal, we shall bestow a few words on some other plans which have been adopted or proposed to render uniform popular election consistent with public quiet. The most remarkable of these are that of Mr. Hume, where the freeholders and the inhabitants assessed to the poor elect those who are to name the members of the Supreme Council;—that lately proposed in France, where a popular body would propose candidates, from whom a small number of the most considerable proprietors would select the representatives;—and the singular plan of Mr. Horne Tooke, which proposed to give the right of voting to all persons rated to the land-tax or parish-rates at 2*l.* 2*s.* per annum, on condition of their paying to the public 2*l.* 2*s.* at the time of voting; but providing, that if the number of voters in any district fell short of four thousand, every man rated at 20*l.* per annum might give a second vote, on again paying the same sum; and making the same provision, in case of the same failure, for third, fourth, fifth, &c. votes for every additional 100*l.* at which the voter is rated, till the number of four thousand votes for the district should be completed.

This plan of Mr. Tooke is an ingenious stratagem for augmenting the power of wealth, under pretence of bestowing suffrage almost universally. To that of Mr. Hume it is a decisive objection, that it leaves to the people only those subordinate elections which would excite no interest in their minds, and would consequently fail in attaining one of the principal objects of popular elections. All schemes for separating the proposition of candidates for public office from the choice of the officers, become in practice a power of nomination in the proposers. It is easy to leave no choice to the electors, by coupling the favoured candidates with none but such as are absolutely ineligible. Yet one reasonable object is common to these projects. They all aim at subjecting elections to the joint influence of property and popularity. In none of them is overlooked the grand principle of equally securing all orders of men, and interesting all in the maintenance of the Constitution. It is possible that any of them might be in some measure effectual; but it would be an act of mere wantonness in *us* to make the experiment. By that variety of rights of suffrage which seems so fantastic, the English Constitution has provided for the union of the principles of property and popularity in a manner much more effectual than those which the most celebrated theorists have imagined. Of the three, perhaps the least unpromising is that of Mr. Tooke, because it approaches nearest to the forms of public and truly popular elections.

In the system now established in France, where the right of suffrage is confined to those who pay direct taxes amounting to twelve pounds by the year, the object is evidently to vest the whole power in the hands of the middling classes. The Royalists who are still proprietors of the greatest estates in the kingdom would have preferred a greater extension of suffrage, in order to multiply the votes of their dependants. But, as the subdivision of forfeited estates has created a numerous body of small landowners, who are deeply interested in maintaining the new institutions, the law, which gives them almost the whole elective power, may on that account be approved as politic. As a general regulation, it is very objectionable.



If we were compelled to confine all elective influence to one order, we must indeed vest it in the middling classes; both because they possess the largest share of sense and virtue, and because they have the most numerous connections of interest with the other parts of society. It is right that they should have a preponderating influence, because they are likely to make the best choice. But that is not the sole object of representation; and, if it were, there are not wanting circumstances which render it unfit that they should engross the whole influence. Perhaps there never was a time or country in which the middling classes were of a character so respectable and improving as they are at this day in Great Britain; but it unfortunately happens, that this sound and pure body have more to hope from the favour of Government than any other part of the nation. The higher classes may, if they please, be independent of its influence. The lower are almost below its direct action. On the middling classes it acts with concentrated and unbroken force. Independent of that local consideration, the virtues of that excellent class are generally of a circumspect nature, and apt to degenerate into timidity. They have little of that political boldness which sometimes belongs to commanding fortune, and often, in too great a degree, to thoughtless poverty. They require encouragement and guidance from higher leaders; and they need excitement from the numbers and even turbulence of their inferiors. The end of representation is not a medium between wealth and numbers, but a combination of the influence of both. It is the result of the separate action of great property, of deliberate opinion, and of popular spirit, on different parts of the political system.

‘That principle of representation,’ said Mr. Fox, ‘is the best which calls into activity the greatest number of independent votes, and excludes those whose condition takes from them the powers of deliberation.’ But even this principle, true in general, cannot be universally applied. Many, who are neither independent nor capable of deliberation, are at present rightly vested with the elective franchise,—not because they are qualified to make a good general choice of members,—but because they indirectly contribute to secure the good composition and right conduct of the Legislature.\*

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\* Even Mr. Bentham admits a principle of exception to the universality of suffrage. Wherever any class wants ‘the appropriate intellectual aptitude,’ he admits that they may be excluded, ‘without prejudice to the interest-comprehension principle.’ It follows also, that they may be excluded if they want morality, and if they want the capacity to choose the best guides, or the disposition to follow the wisest counsel. He hesitates about the admission of female electors. Not surely because women want sense or virtue, nor chiefly for their dependence,—but for domestic peace, for the sake of the duties of their sex—of the character best adapted to the performance of those duties. He proposes also to exclude those who cannot read. If he confines suffrage to males, he must admit that multitudes of persons, well qualified to make a good choice, may be excluded for the sake of other interests of society. The non-readers must be excluded; either, *1st*, for a presumed incapacity in the ignorant to choose well; or, *2dly*, to induce the people to acquire knowledge. Either of these principles would let in many other exclusions, in our opinion far too extensive. Against the second we altogether protest. We would exclude no man merely as a probable means of promoting improvement. Mr. B., on this one occasion, takes into his account ‘collateral effects.’ Had he considered the secondary consequences of political institutions with the same care as he has



The question of Ballot remains. On ballot the advocates of Universal Suffrage seem exclusively to rely for the defence of their scheme. Without ballot, they appear tacitly to admit that Universal Suffrage would be an impracticable and pernicious proposal. But all males in the kingdom, it is said, may annually vote at elections with quiet and independence, if a ballot enables them to give their votes secretly. Whether this expectation be reasonable, is the question on which the decision of the dispute seems now to depend.

The first objection to this proposal is, that ballot would not produce secrecy. Even in those classes of men who are most accustomed to keep their own secret, the effect of ballot is very unequal and uncertain. The common case of clubs, in which a small minority is generally sufficient to exclude a candidate, may serve as an example. Where the club is numerous, the secret may be kept, as it is difficult to distinguish the few who reject; but in small clubs, where the dissentients may amount to a considerable proportion of the whole, they are almost always ascertained. The practice, it is true, is, in these cases, still useful; but it is only because it is agreed by a sort of tacit convention, that an exclusion by ballot is not a just cause of offence. It prevents quarrel, not disclosure. In the House of Commons, Mr. B. allows that ballot does not secure secrecy or independent choice. The example of the elections at the India House is very unfortunately selected. For every thing which a ballot is supposed to prevent is to be found in these elections:—public and private canvass, the influence of personal friendship, connection, gratitude, expectation; promises almost universally made and observed; votes generally if not always known; as much regard, indeed, to public grounds of preference as in most other bodies; but scarcely any exclusion of private motives, unless it be the apprehension of incurring resentment, which is naturally confined within narrow limits, by the independent condition of the greater part of the electors. In general, indeed, they refuse the secrecy which the Legislature seems to tender to them. From kindness, from esteem, from other motives, they are desirous that their votes should be known to candidates whom they favour: and what is disclosed to friends, is speedily discovered by opponents.

If the ballot should be thought a less offensive mode of voting against an individual than the voice, this slight advantage is altogether confined to those classes of society who have leisure for such fantastic refinements. In these cases, indeed, the efficacy of ballot is counteracted by obvious causes. But are none such likely, or rather sure, to act on the two millions of voters who would be given to us by universal suffrage? Let us examine them closely. Will the country labourer ever avail himself of the proffered means of secrecy? To believe this, we must suppose that he performs the most important act of his life, that which most flatters his pride, and gratifies his inclination, without speaking of his intention before, or boasting of his vote when, he has given it. His life has no secrets. The circle of his village is too small for concealment. His wife, his children, his fellow-labourers, the companions of his recreations, know all that he does, and almost

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done those of criminal acts, we cannot think it possible that we should have dissented so widely from his opinion. The consideration of 'collateral effects' might have prevented some suggestions, which only Mr. B.'s enemies will ever quote without necessity.



all that he thinks. Can any one believe that he would pass the evening before, or the evening after, the day of election, at his alehouse, wrapt up in the secrecy of a Venetian senator, and concealing a suffrage as he would do a murder? If his character disposed him to secrecy, would his situation allow it? His landlord, or his employer, or their agents, or the leaders of a party in the election, could never have any difficulty in discovering him. The simple acts of writing his vote, of delivering it at the poll, or sending it if he could not attend, would betray his secret in spite of the most complicated ballot ever contrived in Venice. In great towns, the very mention of secret suffrage is ridiculous. By what contrivance are public meetings of the two hundred and fifty thousand London electors to be prevented? There may be quiet and secrecy at the poll; but this does not in the least prevent publicity and tumult at other meetings occasioned by the election. A candidate will not forego the means of success which such meetings afford. The votes of those who attend them must be always known. If the Venetian Council of Ten were dispersed among a Westminster mob while candidates were speaking, they would catch its spirit, and betray their votes by huzzas and hisses. Candidates and their partisans, committees in parishes, agents in every street during an active canvass, would quickly learn the secret of almost any man in Westminster. The few who affected mystery would be detected by their neighbours. The evasive answer of the ablest of such dissemblers to his favoured friend or party would be observably different, at least in tone and manner, from that which he gave to the enemy. The zeal, attachment, and enthusiasm which must prevail in such elections, as long as they continue really popular, would probably bring all recurrence to means of secrecy into discredit, and very speedily into general disuse. Even the smaller tradesmen, to whom ballot might seem desirable as a shield from the displeasure of their opulent customers, would betray the part they took in the election, by their ambition to be leaders in their parishes. The formality of a ballot might remain; but the object of secrecy is incompatible with the nature of such elections.

The *second* objection is, that if secrecy of suffrage could be really adopted, it would, in practice, contract, instead of extending, the elective franchise, by abating, if not extinguishing, the strongest inducements to its exercise. All wise laws contain in themselves effectual means for their own execution; but, where votes are secret, scarcely any motive for voting is left to the majority of electors. In a blind eagerness to free the franchise from influence, nearly all the common motives for its exercise are taken away. The common elector is neither to gain the favour of his superiors, nor the kindness of his fellows, nor the gratitude of the candidate for whom he votes. From all these, secrecy must exclude him. He is forbidden to strengthen his conviction, to kindle his zeal, to conquer his fears or selfishness, in numerous meetings of those with whom he agrees; for, if he attends such meetings, he must publish his suffrage, and the ballot, in his case, becomes altogether illusory. Every blameable motive of interest, every pardonable inducement of personal partiality, are, indeed, taken away. But what is left in their place? Nothing but a mere sense of public duty, unaided by the popular discipline which gives fervour and vigour to public sentiments. A wise lawgiver does not trust to a general sense of duty in the most unimportant law. If such a prin-



ciple could be trusted, laws would be unnecessary. Yet to this cold feeling, stripped of all its natural and most powerful aids, would the system of secret suffrage alone trust for its execution. At the poll it is said to be sufficient, because all temptations to do ill are supposed to be taken away. But the motives by which electors are induced to go to a poll have been totally overlooked. The inferior classes, for whom this whole system is contrived, would, in its practice, be speedily disfranchised. They would soon relinquish a privilege when it was reduced to a troublesome duty. Their public principles are often generous; but they do not arise from secret meditation, and they do not flourish in solitude.

*Lastly*, If secret suffrage were to be permanently practised by all voters, it would deprive election of all its popular qualities, and of many of its beneficial effects. The great object of popular elections is to inspire and strengthen the love of liberty. On the strength of that sentiment freedom wholly depends, not only for its security against the power of time and of enemies, but for its efficiency and reality while it lasts. If we could suppose a people perfectly indifferent to political measures, and without any disposition to take a part in public affairs, the most perfect forms and institutions of liberty would be among them a dead letter. The most elaborate machinery would stand still for want of a moving power. In proportion as a people sinks more near to that slavish apathy, their constitution becomes so far vain, and their best laws impotent. Institutions are carried into effect by men, and men are moved to action by their feelings. A system of liberty can be executed only by men who love liberty. With the spirit of liberty, very unpromising forms grow into an excellent Government. Without it, the most specious cannot last, and are not worth preserving. The institutions of a free State are safest and most effective when numerous bodies of men exercise their political rights with pleasure and pride — consequently, with zeal and boldness, — when these rights are endeared to them by tradition and by habit, as well as by conviction and feeling of their inestimable value, — and when the mode of exercising privileges is such as to excite the sympathy of all who view it, and to spread through the whole society a jealous love of popular right, and a proneness to repel with indignation every encroachment on it.

Popular elections contribute to these objects, partly by the character of the majority of the electors, and partly by the mode in which they give their suffrage. Assemblies of the people of great cities are indeed very ill qualified to exercise authority; but without their occasional use, it can never be strongly curbed. Numbers are nowhere else to be collected. On numbers alone, much of their power depends. In numerous meetings, every man catches animation from the feelings of his neighbour, and gathers courage from the strength of a multitude. Such assemblies, and they alone, with all their defects and errors, have the privilege of inspiring many human beings with a perfect, however transient, disinterestedness, and rendering the most ordinary men capable of foregoing interest, and forgetting self, in the enthusiasm of zeal for a common cause. Their vices are a corrective of the deliberating selfishness of their superiors. Their bad as well as good qualities render them the portion of society the most susceptible of impressions, and the most accessible to public feelings. They are fitted to produce that democratic spirit which, tempered in its



progress through the various classes of the community, becomes the vital principle of liberty. It is very true, that the occasional absurdity and violence of these meetings, often alienate men of timid virtue from the cause of Liberty. It is enough for the present purpose, that in those long periods to which political reasonings must always be understood to apply, they contribute far more to excite and to second, than to offend or alarm, the enlightened friends of the rights of the people. But meetings for election are by far the safest and the most effective of all popular assemblies. They are brought together by the Constitution; — they have a legal character; — they display the ensigns of public authority; — they assemble men of all ranks and opinions; — and, in them, the people publicly and conspicuously bestow some of the highest prizes pursued by a generous ambition. Hence they derive a consequence, and give a sense of self-importance, to their humblest members, which would be vainly sought for in spontaneous meetings. They lend a part of their own seriousness and dignity to other meetings occasioned by the election, and even to those which, at other times, are really, or even nominally, composed of electors.

In elections, political principles cease to be mere abstractions. They are embodied in individuals; and the cold conviction of a truth, or the languid approbation of a measure, is animated by attachment for leaders, and hostility to adversaries. Every political passion is warmed in the contest. Even the outward circumstances of the scene strike the imagination, and affect the feelings. The recital of them daily spreads enthusiasm over a country. The various fortunes of the combat excite anxiety and agitation on all sides; and an opportunity is offered of discussing almost every political question, under circumstances where the hearts of hearers and readers take part in the argument: and the issue of a controversy is regarded by the nation with some degree of the same solicitude as the event of a battle. In this manner is formed democratical ascendancy, which is most perfect when the greatest numbers of independent judgments influence the measures of Government. Reading may, indeed, increase the number and intelligence of those whose sentiments compose public opinion; but numerous assemblies, and consequently popular elections, can alone generate the courage and zeal which form so large a portion of its power.

With these effects it is apparent that secret suffrage is absolutely incompatible. They cannot exist together. Assemblies to elect, or assemblies during elections, make all suffrages known. The publicity and boldness in which voters give their suffrage are of the very essence of popular elections, and greatly contribute to their animating effect. The advocates of ballot tell us, indeed, that it would destroy canvass and tumult. But after the destruction of canvass, elections would no longer teach humility to the great, nor self-esteem to the humble. Were the causes of tumult destroyed, elections would no longer be nurseries of political zeal, and instruments for rousing national spirit. The friends of liberty ought rather to view the turbulence of the people with indulgence and pardon, powerfully tending to exercise and invigorate their public spirit. It is not to be extinguished, but to be rendered safe by countervailing institutions of an opposite tendency in other parts of the constitutional system.

The original fallacy, which is the source of all erroneous reasoning in favour of ballot, is the assumption that the value of popular elec-

tions chiefly depends on the exercise of a deliberate judgment by the electors. The whole anxiety of its advocates is to remove the causes which might disturb a considerate choice. In order to obtain such a choice, which is *not* the great purpose of popular elections, the speculators would deprive them of the power to excite and diffuse *public spirit*, — the great and inestimable service which a due proportion of such elections renders to a free State. In order to make the forms of democracy universal, their plan would universally extinguish its spirit. In a commonwealth where Universal Suffrage was already established, ballot might perhaps be admissible as an expedient for tempering such an extreme democracy. Even there, it might be objected to, as one of those remedies for licentiousness which are likely to endanger liberty by destroying all democratic spirit. It would be one of those dexterous frauds by which the people are often weaned from the exertion of their privileges.

On the frequency of elections we have left ourselves no room to dwell at present. They may be too frequent for exciting universal attention and national sympathy. Whatever is very frequent becomes familiar. It is viewed with little interest, and done with no spirit. We subjoin the following argument against annual election from an unpublished work of Mr. Bentham, which we have the good fortune to possess, — not for the puerile purpose of charging him with inconsistency, but because it contains unanswerable reasoning, conveyed in clear and precise language.

‘ Next to the having no periodical elections, is the having them as frequent as possible. Why? Because, the oftener they come round, the less the danger is of a change. As the mischiefs of changing so often as you might change are so palpable, and as you see no more reason for changing one time than another, you even take things as they are, and enter into a sort of implicit engagement with yourself not to change at all.

‘ This is no speculative conjecture: it is but a key to facts offered by experience. In England, wherever regular succession is not the object\*, annual elections prove in effect appointments for life, subject only to a periodical power of a motion which is rarely exercised†: while longer terms produce frequent changes, and still more frequent struggles.‡’ (Remarks on the Judicial Establishments in France, chap. 5. title 3.)

Rotation, or temporary exclusion, after a certain period, are contrivances easily evaded; and they undistinguishingly exclude the wise and the foolish, the honest and the corrupt. Talent and virtue are too rare for such plans. To reject the benefit of experience must always be unwise. It is vain to answer, that if, by annual elections, the same members were to have seats for life, it would be a proof that the people approved their public conduct. There would be much oftener an acquiescence from the evil of frequent contest, than a continued preference of political merit. We may add, that in Parliamentary elec-

\* Examples: Lord Mayor of London: Sheriffs of London.

† Examples: Chamberlain of London: Chairman of the Justices of the Peace for Middlesex: President of the Royal Society: (to which may be added, the Common Council of London.)

‡ Example: Member of Parliament.



tions, some change of members, more risk of change, and considerable contest, are in themselves advantageous to public liberty.

We must reserve for a future occasion such thoughts as have occurred to us on those plans of Constitutional Reform which might gradually unite the most reasonable Friends of Freedom, and of which we should not be without hope, that some part might one day be adopted under the conduct of a firm as well as liberal Government, and when almost all reformers shall have openly renounced those extravagant opinions which supply the champions of abuse with the most effective weapons.

We close with a few words on a subject to which Mr. Bentham has frequently adverted — the example of the United States of America. The system which we oppose is established in that Republic, — and it is said to be attended with no mischievous effects.

To this we answer, that, in America, Universal Suffrage is not the rule, but the exception. In twelve out of the nineteen States which compose that immense Confederacy, the disgraceful institution of Slavery deprives great multitudes not only of political franchises, but of the indefeasible rights of all mankind. The numbers of representatives of the Slave States in Congress is proportioned to their population, whether slaves or freemen; a provision arising, indeed, from the most abominable of all human institutions, but recognising the just principle, that property is one of the elements of every wise representation. In many, the white complexion is a necessary qualification for suffrage; and the disfranchised are separated from the privileged order by a physical boundary, which no individual can ever pass. In countries of slavery, where to be free is to be noble, the universal distribution of privilege among the ruling caste is a natural consequence of the aristocratical pride with which each man regards the dignity of the whole order, especially when they are all distinguished from their slaves by the same conspicuous and indelible marks. Yet, in Virginia, which has long been the ruling State of the Confederacy, even the citizens of the governing class cannot vote without the possession of a freehold estate. A real or personal estate is required in New England, the antient seat of the character and spirit of America; the parent of those seamen who, with a courage and skill worthy of our common forefathers, have met the followers of Nelson in war; the nursery of the intelligent and moral, as well as hardy and laborious race, who now annually colonize the vast regions of the West.

But were the fact otherwise. America contains few large, and no very great towns; — the people are dispersed, and agricultural; — and, perhaps, a majority of the inhabitants are either landowners, or have that immediate expectation of becoming proprietors, which produces nearly the same effect on character with the possession of property. Adventurers who, in other countries, disturb society, are there naturally attracted towards the frontier, where they pave the way for industry, and become the pioneers of civilization. There is no part of their people in the situation where democracy is dangerous, or even usually powerful. The dispersion of the inhabitants, their distance from the scene of great affairs, are perhaps likely rather to make the spirit of liberty among them languid, than to rouse it to excess. The majority are in the condition which is elsewhere considered as a pledge of independence, and a qualification for suffrage. They have no popu-

lace; and the greater part of them are either landholders, or just about to be so. No part, then, of the preceding argument is inconsistent with the example of America, even were Universal Suffrage established there.

In what manner the present Elective system of America may act, at the remote period when the progress of society shall have conducted that country to the crowded cities and unequal fortunes of Europe, no man will pretend to foresee, except those whose presumptuous folly disables them from forming probable conjectures on such subjects. If, from the unparalleled situation of America, the present usages should quietly prevail for a very long time, they may insensibly adapt themselves to the gradual changes in the national condition, and at length be found capable of subsisting in a state of things to which, if they had been suddenly introduced, they would have proved irreconcilably adverse. In the thinly-peopled States of the West, Universal Suffrage itself may be so long exercised without the possibility of danger, as to create a national habit which may be strong enough to render its exercise safe in the midst of an indigent populace. In that long tranquillity it may languish into forms, and these forms may soon follow the spirit. For a period far exceeding our foresight, it cannot affect the confederacy further than the effect which may arise from very popular elections in a few of the larger western towns. The interior order of the country where it is adopted will be aided by the compression of its former and more compact confederates. It is even possible that the extremely popular system which prevails in some American elections may, in future times, be found not more than sufficient to counterbalance the growing influence of wealth in the South, and the tendencies towards Toryism which are of late perceptible in New England. The operation of different principles on elections, in various parts of the Continent, may even now be discerned. Some remarkable facts have already appeared. In the state of Pennsylvania, we have\* a practical proof that ballot is not attended with secrecy. We also know†, that committees, composed of the leaders of the federal and democratic parties, instruct their partisans how they are to vote at every election; and that in this manner the leaders of the democratic party who now predominate in their *Caucus*‡ or Committee at Washington, do in effect

\* Fearon, 138, &c. How could this intelligent writer treat the absence of tumult, in such a city and country, as bearing any resemblance to the like circumstance in Europe?

† Id. 320.

‡ The following account of this strange term will show its probable origin, and the long-experienced efficacy of such an expedient for controlling ballot:—  
‘About the year 1738, the father of Samuel Adams, and twenty others who lived in the North or Shipping part of Boston, used to meet, to make a *Caucus*, and lay their plan for introducing certain persons into places of trust. Each distributed the ballots in his own circle, and they generally carried the election. In this manner Mr. S. Adams first became representative for Boston.—  
‘*Caucusing* means electioneering.’—Gordon, *Hist. Am. Revol.*, i. p. 216, Note. London, 1788.

It is conjectured, that as this practice originated in the Shipping Part of Boston, ‘*Caucus*’ was a corruption of Caulkers Meeting.—For this information we are indebted to Pickering’s *American Vocabulary* (Boston, 1816); a modest and sensible book, of which the principal fault is, that the author ascribes too



nominate to all the important offices in North America. Thus, we already see combinations formed, and interests arising, on which the future government of the Confederacy may depend more than on the forms of election, or the letter of its present laws. Those who condemn the principle of party may disapprove these associations as unconstitutional. To us, who consider parties as inseparable from liberty, they seem remarkable as examples of those undesigned and unforeseen correctives of inconvenient laws which spring out of the circumstances of society. The election of so great a magistrate as the President, by great numbers of electors, scattered over a vast continent, without the power of concert, or the means of personal knowledge, would naturally produce confusion, if it were not tempered by the confidence of the members of both parties in the judgment of their respective leaders. The permanence of these leaders, slowly raised by a sort of insensible election to the conduct of parties, tends to counteract the evil of that system of periodical removal, which is peculiarly inconvenient in its application to important executive offices. The internal discipline of parties may be found to be a principle of subordination of great value in Republican Institutions. Certain it is, that the affairs of the United States have hitherto been generally administered, in times of great difficulty and under a succession of Presidents, with a forbearance, circumspection, constancy, and vigour, not surpassed by those commonwealths who have been most justly renowned for the wisdom of their councils. The only disgrace or danger which we perceive impending over America arises from the execrable institution of Slavery,—the unjust disfranchisement of free Blacks,—the trading in slaves carried on from State to State,—and the dissolute and violent character of those adventurers, whose impatience for guilty wealth spreads the horrors of slavery over the new acquisitions in the South.\* Let the Lawgivers of that Imperial Republic deeply consider how powerfully these disgraceful circumstances tend to weaken the love of Liberty,—the only bond which can hold together such vast territories, and therefore the only source and guard of the tranquillity and greatness of America.†

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much importance to some English writers, who are not objects of much reverence to a near observer. Mr. Pickering's volume, however, deserves a place in English libraries.

\* See Mr. Fearon's Account of the Slave Trade on the Mississippi, and his frightful extracts from the newspapers of New Orleans.

† One of the best pamphlets ever composed on the question of Reform in Parliament was published in reply to this Essay, by Baldwin, Cradock, and Joy, in 1821. It is entitled, "Statement of the Question of Parliamentary Reform; with a Reply to the Objections of the Edinburgh Review, No. 61." Those who wish to see the advantages of an extended suffrage and vote by ballot established on incontrovertible and triumphant grounds should peruse that admirable and unanswerable production.

## A SPECIFIC PLAN OF REFORM;

COMPRISING THE DISFRANCHISEMENT OF DELINQUENT BOROUGHES—THE TRANSFERENCE OF THE ELECTIVE FRANCHISE TO LARGE COMMERCIAL TOWNS—A CHANGE IN THE SCOTCH SYSTEM OF REPRESENTATION—AND THE RESTORATION OF TRIENNIAL PARLIAMENTS.\*

It is peculiarly difficult to make the supporters of Moderate Reform act as one body: for, from the very nature of their opinions, they are subject to great divisions. This has been always the main source of their weakness, and the standing reproach of their opponents on both sides. While one of the extreme factions see, in every form of the Constitution, the sacredness of an article of faith, and the other ascribe to every visionary project of change the certainty of a proposition in geometry, — the Moderate Reformers, who pretend only to seek for probable means of quiet improvement, are exposed, by the very reasonableness of their principles, to that disunion, from which both classes of their enemies are secured by absurdity and arrogance. It would, however, be a gross deviation from those principles of prudence and expediency on which Moderate Reform is founded, if its partisans were unwilling, at a crisis like the present, to make some mutual sacrifices of opinion. Most of them agree in thinking, that the direct power of the people in the House of Commons is too small, that the right of suffrage ought to be extended, and the duration of Parliament shortened. A plan which promises substantial improvement in these respects, however it may fall short of the opinion of some, or go somewhat beyond that of others, ought to be supported by the main body. The great strength of the cause of Moderate Reform lies in the middle classes, who at the present moment have a strong feeling that there are serious defects and abuses in the Government, and a warm desire of reformation, without any very distinct notion of its particular nature. It seems extremely desirable to present a Scheme of Reform to these important classes, in order to fix their opinions, to form a point of union between themselves, and to guard them against the contagion of extravagant projects. The main benefit, however, to be expected from such a plan, would be the probability of its gradually reconciling the prudent friends of the Establishment, with the better, and perhaps, at last, the larger part of the more zealous Reformers. We are not so ignorant of human nature, as to consider the success of such an attempt as certain, or in any case as easy or speedy. If it be accomplished at all, it can only be by those who have the patience to bear disappointments, and the spirit to rally, after successive defeats.

The conditions to be exacted from the proposer of a pacific plan of reformation seem to be the following.

*First*, It ought to provide for a real and considerable increase of the direct power of the body of the people, in the Commons' House of Parliament.

A plan, which did not fulfil this condition, would neither unite Moderate Reformers, nor detach sensible and reputable men from more extensive plans of change. It would be of little value, therefore, in the

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\* Speech of Lord John Russell in the House of Commons, on the 14th December, 1819, for transferring the Elective Franchise from Corrupt Boroughs to Unrepresented Great Towns.—Vol. xxxiv. p. 461. November, 1820.



eyes of those who might be persuaded to employ Reform as an instrument of *conciliation*.

*Secondly*, It ought to furnish a reasonable security, that it will not be the source of new dangers to the other institutions and establishments of the kingdom.

Without this condition, it would be treachery to propose it to those who at present have the chief influence on public affairs. They have unquestionably a right to such a security; and it would be folly to expect that they would not demand it. No reform which does not satisfy this condition can be a *peaceful* measure.

*Thirdly*, It ought to be founded, not only on general reasons of political expediency, but in the acknowledged principles, and, as far as may be, in the established and even technical forms of the British Constitution.

This condition is a strong preservative against disunion among the reformers, and the best, if not the only, security which any plan of reform can offer, that its adoption will lead to no changes but those which are contemplated and avowed by its authors.

*Fourthly*, It should, if possible, be peculiarly founded on such constitutional principles as present a distinct and visible limit to its operation, so as to lead, by no necessary consequence, to the adoption of other measures, and to leave all future questions of that nature to be discussed on their own intrinsic merits.

It is obvious, that a plan of peace ought not to be embroiled by the demand of any sacrifices of opinion respecting future controversies; but justice requires, that it should be so framed that the party which yields should, at the time of the transaction, clearly see all the consequences of his concession.

*Fifthly*, As a consequence of the previous conditions, the plan should be such as may be reasonably expected to be proposed and carried by an administration friendly to Reform, but inviolably attached to the Constitution.

All the previous conditions are general, and some of them, perhaps, rather abstract. This last divests them of their generality, and brings them into the light of practice:—no Reform can ever be peaceably carried, otherwise than by a friendly administration:—all plans which will not bear the test of this condition are either delusions or instruments of revolution. Whoever seriously intends Reform, and sincerely designs nothing more, ought constantly to bear in mind, in framing his plan, how *a minister* could propose it in the Cabinet, or move it in the House of Commons.

The foundations of such a Reform as might fulfil all these conditions may be found, we think, in the two General Resolutions, moved by Lord John Russell, on the 14th of December 1819, after a speech, which combined the prudence of a Statesman with the enlarged views of a Philosopher. These Resolutions are as follows—

‘ 1. That it is expedient that all Boroughs, in which gross and notorious bribery and corruption shall be found to prevail, shall cease to return Members to serve in Parliament.

‘ 2. That it is expedient that the right of returning Members to serve in Parliament, so taken from any borough which shall have been proved to have been guilty of bribery and corruption, should be given to some great towns, the population of which shall not be less than 15,000 souls; or to some of the largest counties.’

The debates on these Resolutions, and on the measure which followed them, are remarkable, as the first occasion on which a majority of the House of Commons showed a willingness to listen favourably to a proposal of Parliamentary Reform. The object of Lord John was two-fold:—to redress a particular grievance, and to take that opportunity of introducing a reformatory principle into the Constitution. The nature of his measure, and the conditions under which the principle was to be applied, were well suited to the attainment of these objects. The most material change which we should propose in his plan would be an inversion of the order of time in which the two Resolutions are to be carried into effect.

I. The first article in a wise plan of reformation would, in our opinion, be the immediate addition of twenty Members to the House of Commons, to be chosen by the most opulent and populous of the communities which are at present without direct representation; with such varieties, in the right of suffrage, as the local circumstances of each community might suggest, but in all of them on the principle of a widely-diffused franchise. In Scotland, Glasgow ought to be included; in Ireland we think there are no unrepresented communities to which the principle could be applied.

In endeavouring to show that this proposal is strictly constitutional, according to the narrowest and most cautious use of that term,—that it requires only the exercise of *an acknowledged* right, and the revival of a practice observed for several ages, we shall abstain from those controverted questions which relate to the obscure and legendary part of our Parliamentary history. A very cursory review of the authentic annals of the House of Commons is sufficient for the present purpose. In the writs of summons of the 11th of Edward I., the Sheriffs were directed (as they are by the present writ) to send two Members from *each* city and borough within their respective bailiwicks. The letter of this injunction appears, from the beginning, to have been disobeyed. The Crown was indeed desirous of a full attendance of citizens and burgesses, a class of men then subservient to the royal pleasure, and who, it was expected, would reconcile their neighbours in the provinces to the burthen of Parliamentary grants. But to many boroughs, the wages of burgesses in Parliament were a heavy and sometimes an insupportable burthen; and this struggle between the policy of the Crown and the poverty of the boroughs occasioned great fluctuation in the towns who sent Members to the House of Commons, in the course of the 14th century. Small boroughs were often excused by the Sheriff on account of their poverty, and at other times neglected or disobeyed his order. When he persisted, petitions were presented to the King in Parliament, and perpetual or temporary charters of exemption were obtained by the petitioning boroughs. In the 1st of Edward III. the county of Northumberland and the town of Newcastle were exempted, on account of the devastations of the Scotch war. The boroughs in Lancashire sent no Members from the reign of Edward III. to that of Henry VI.; the Sheriff stating, in his returns, that there was no borough in his bailiwick able to bear the expense. Of 184 cities and boroughs summoned to Parliament in the reigns of the three first Edwards, only 91 continued to send Members in the reign of Richard II. In the midst of this great irregularity in the composition of the House of Commons, we still see a manifest, though irregular, tendency to the establishment of a constitutional principle;



viz. that deputies from all the most important communities, with palpably distinct interests, should form part of a national assembly. The separate and sometimes clashing interests of the town and the country were not entrusted to the same guardians. The Knights of the Shire were not considered as sufficient representatives even of the rude industry and infant commerce of that age.

The dangerous discretion of the Sheriffs was taken away by the statutes for the regulation of elections, passed under the princes of the House of Lancaster. A seat in the House of Commons had now begun to be an object of general ambition. Landed gentlemen, lawyers, even courtiers, served as burgesses, instead of those traders — sometimes, if we may judge from their names, of humble occupation — who filled that station in former times. Boroughs had already fallen under the influence of neighbouring proprietors; and, from a curious passage in the Paston Letters\*, we find, that in the middle of the fifteenth century, the nomination of a young gentleman to serve for a borough, by the proprietor, or by a great man of the Court, was spoken of as not an unusual transaction. From this time the power of the Crown, of granting representation to new boroughs, formed a part of the regular practice of the Government, and was exercised without interruption for two hundred years. In the cases of Wales, Chester, and, long after, of Durham, representation was bestowed by statute, probably because it was thought that no inferior authority could have admitted Members from those territories, long subject to a distinct government, into the Parliament of England. In these antient grants of representation, whether made by the King or by Parliament, we discover a great uniformity of principle, and an approach to the maxims of our present constitution. In Wales and Chester, as well as in England, the counties were distinguished from the towns, and the protection of their separate interests was committed to different representatives: the rights of election were diversified, according to the local interests and municipal constitution of the several towns.

In the preamble of the Chester Act, representation is stated to be the means of securing the county from the wrong which it had suffered while it was unrepresented. It was bestowed on Wales with the other parts of the laws of England, of which it was thought the necessary companion; and the exercise of popular privileges is distinctly held out as one of the means which were to quiet and civilize that principality. In the cases of Calais and Berwick, the frontier fortresses

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\* In October 1455, Richard Plantagenet, Duke of York, John Mowbray, Duke of Norfolk, and John de Vere, Earl of Oxford, very openly, and in somewhat strong terms, recommended two gentlemen to be elected Members for the county of Norfolk.—*Paston Letters*, i. pp. 96-99.

In 1472, the Dukes of Norfolk and Suffolk agreed on the Members for the county of Norfolk. In that year also the Duchess of Norfolk's steward procures the returns for Yarmouth, and recommends Sir John Paston for Malden.—*Paston Letters*, ii. pp. 99-107.

The following short extract shows how much a seat in Parliament had become an object of ambition — what part the Court took in elections — and how they obtained seats for their adherents.

‘ If ye miss to be burgesse of Malden, and My Lord Chamberlain will ye may  
 ‘ be in another place; there be a dozen towns in England that chuse no burgesse,  
 ‘ which ought to do it; ye may be set in for one of those towns, if ye be  
 ‘ friended.’



against France and Scotland, where modern politicians would have been fearful of introducing the disorders of elections, Henry the Eighth granted the elective franchise, apparently for the purpose of strengthening the attachment and securing the fidelity of their inhabitants.—The Knights of the shire for Northumberland were not then thought to represent Berwick sufficiently.

While we thus find in these antient examples so much solicitude for an adequate representation of the separate interests of classes and districts, it is particularly worthy of remark, that we find no trace in any of them of a representation founded merely on numbers. The statute which gave representatives to Wales was within a century of the act of Henry VI. for regulating the qualifications for the voters in counties; and, on that subject, as well as others, may be regarded as no inconsiderable evidence on the antient state of the Constitution. Had universal suffrage prevailed till the 15th century, it seems wholly incredible, that no trace of it should be found in the numerous royal and parliamentary grants of representation, which occur in the early part of the 16th. Mere accident must have revived it in some instances; for it certainly had not *then* become an argument of jealousy or apprehension.

In the reigns of Edward the Sixth, Mary, and Elizabeth, the struggles between the Catholic and Protestant parties, occasioned a great and sudden increase of the House of Commons. Fourteen boroughs were thus privileged by the first of these Sovereigns, ten by the second, and twenty-four by Elizabeth. The choice, in the reign of Edward and Elizabeth, was chiefly in the western and southern counties, where the adherents of the Reformation were most numerous, and the towns were most under the influence of the Crown.\* By this extraordinary exertion of prerogative, a permanent addition of 94 members was made to the House of Commons in little more than fifty years. James and Charles, perhaps dreading the accession of strength which a more numerous House of Commons might give to the popular cause, made a more sparing use of this power. But the popular party in the House of Commons, imitating the policy of the ministers of Elizabeth, began to strengthen their parliamentary influence by a similar expedient. That House had, indeed, no pretensions to the power of making new Parliamentary boroughs; but the same purpose was answered, by the revival of those which had long disused their privilege. Petitions were obtained from many towns well affected to the popular cause, alleging that they had, in antient times, sent members to Parliament, and had not legally lost the right. These petitions were referred to the Committee of Privileges; and, on a favourable report, the Speaker was directed to issue his warrant for new writs. Six towns, of which Mr. Hampden's borough of Wendover was one, were in this manner empowered to send members to Parliament in the reign of James. Two were added in 1628 by like means, and six more by the Long Parliament on the very eve of the civil war.

No further addition was made to the representation of England, except the Borough of Newark, on which Charles II., in 1672, bestowed the privilege of sending Burgesses to the House of Commons, as a reward for the fidelity of the inhabitants to his father. The right

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\* Browne Willis, *Notitiæ Parliamentariæ*, ii. p. 102. Borlase's *Hist. of Cornwall*, and Whitelocke's *Notes on the Writ of Summons*.



of the first burgesses returned by this borough in 1673 was questioned, — though on what ground our scanty and confused accounts of the Parliamentary transactions of that period do not enable us to determine. The question was suspended for about three years; and at last, on the 26th day of March 1676, it was determined, by a majority of 125 against 73, that the town *had* a right to send burgesses: but on a second division, it was resolved, by a majority of one, that the members returned were not duly elected. And thus suddenly, and somewhat unaccountably, ceased the exercise of a prerogative which, for several centuries, had continued to augment, and, in some measure, to regulate the English representation.

Neither this, nor any other constitutional power, originated in foresight and contrivance. Occasional convenience gave rise to its first exercise; the course of time gave it a sanction of law. It was more often exercised for purposes of temporary policy, or of personal favour, than with any regard to the interest of the Constitution. Its entire cessation is, however, to be considered as forming an epoch in the progress of our government. However abusively it might often be exercised, its existence might be defended, on the ground that it was the constitutional means of remedying the defects of the representation. It was a tacit acknowledgment that a representative system must, from time to time, require amendment. Every constitutional reasoner must have admitted, that it was rightly exercised only in those cases where it contributed to the ends for the sake of which alone it could be justified. Its abuse consisted much more in granting the suffrage to insignificant villages, than in withholding it from large towns. The cases of the latter sort are very few, and may be imputed to accident and negligence, which would probably have been corrected in process of time. No such instance occurs with respect to any town of the first, or even of the second class. And indeed it cannot be supposed, that, before the disuse of that prerogative, four or five of the principal towns in the kingdom should have continued without representatives for more than a century. Whatever the *motive* might have been for granting representatives to Westminster by Edward VI., no *reason* could have been assigned for the grant, but the growing importance of that city. Lord Clarendon's commendation of the constitution of Cromwell's parliament to which Manchester, Leeds, and Halifax, then towns of moderate size, sent representatives, may be considered as an indication of the general opinion on this subject.

In confirmation of these remarks, we shall close this short review of the progress of representation before the Revolution, by an appeal to two legislative declarations of the principles by which it ought to be governed. The first is the Chester Act \*, of which the preamble is so well known as the basis of Mr. Burke's plan for conciliation with America. It was used against him, to show that Parliament might legislate for unrepresented counties; but it was retorted by him, with much greater force, as a proof from experience, and an acknowledgment of the Legislature, that counties in that situation had no security against misrule. The petition of the inhabitants of Cheshire, which was adopted as the preamble of the act, complained that they had neither knight nor burgess in Parliament for the 'said county-palatine; and that the said inhabitants, 'for lack thereof, have been

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\* 34 and 35 of Hen. VIII. c. 13.

‘ oftentimes touched and grieved with acts and statutes made within the said Court.’ On this recital the statute proceeds :—

‘ *For remedy thereof*, it may please your Highness, that it may be enacted, that, from the end of this present session, the said county-palatine shall have two Knights for the said county-palatine, and likewise two Citizens to be burgesses for the city of Chester.’

The statute enabling Durham to send knights and burgesses to Parliament, which has been less frequently quoted, is still more explicit on the purposes of the present argument.

‘ Whereas the inhabitants of the said county-palatine of Durham have not hitherto had the liberty and privilege of electing and sending any knights and burgesses to the High Court of Parliament, although the inhabitants of the said county-palatine are liable to all payments, rates, and subsidies granted by Parliament, equally with the inhabitants of other counties, cities, and boroughs in this kingdom, who have their knights and burgesses in the Parliament, and are therefore concerned equally with others the inhabitants of this kingdom to have knights and burgesses in the said High Court of Parliament, of their own election, to represent the condition of their county, as the inhabitants of other counties, cities, and boroughs of this kingdom have . . . . Wherefore, be it enacted, that the said county-palatine of Durham may have two knights for the same county, and the city of Durham two citizens to be burgesses for the same city, for ever hereafter, to serve in the High Court of Parliament . . . . The elections of the knights to serve for the said county, from time to time hereafter, to be made by the greater number of freeholders of the said county-palatine, which from time to time shall be present at such elections, accordingly as is used in other counties in this your Majesty’s kingdom; and that the election of the said burgesses for the city of Durham, to be made from time to time by the major part of the mayor, aldermen, and freemen of the said city of Durham, which from time to time shall be present at such elections.’

This statute does not, like the Chester Act, allege that any specific evil had arisen from the previous want of representatives: but it recognises, as a general principle of the English constitution, that the interests of every unrepresented district are in danger of being overlooked or sacrificed; and that the inhabitants of such districts are therefore interested to have knights and burgesses in Parliament, ‘ of their own election, to represent the condition of their county.’

This principle is, in effect, as applicable to towns as to counties. The town of Newcastle had then as evident an interest in the welfare of the county of Durham, as the county of Warwick can now have in the prosperity of the town of Birmingham; but the members for Newcastle were not considered, by this statute, as sufficient guardians of the prosperity of the county of Durham. Even the knights who were to serve for the county were not thought to dispense with the burgesses to serve for the city. As we have before observed, the distinct interests of country and town were always, on such occasions, provided for by our ancestors; and *a principle* was thereby established, that every great community, with distinct interests, ought to have separate representatives.

It is also observable, that the right of suffrage is not given to all the inhabitants, nor even to all the taxable inhabitants, but to the



freeholders of the county, and freemen of the city, — who have a common interest and fellow-feeling with the whole. As these electors were likely to partake the sentiments of the rest of the inhabitants, and as every public measure must affect both classes alike, the members chosen by such a part of the people were considered as virtually representing all. The claim to representation is acknowledged as belonging to all districts and communities, to all classes and interests, — but not to all men. Some degree of actual election was held necessary to virtual representation. The guardians of the interest of the county were to be, to use the language of the preamble, ‘ of their own election :’ though it evidently appears from the enactments, that these words imported only an election by a considerable portion of them. It is also to be observed, that there is no trace in this act of a care to proportion the number of the new representatives to *the population* of the district, though a very gross deviation on either side would probably have been avoided.

When we speak of *principles* on this subject, we are not to be understood as ascribing to them the character of rules of law, or of axioms of science. They were maxims of constitutional policy, to which there is a visible, though not a uniform reference in the acts of our forefathers. They were more or less regarded, according to the character of those who directed the public councils. The wisest and most generous men made the nearest approaches to their observance ; but in the application of these, as well as of all other political maxims, it was often necessary to yield to circumstances, to watch for opportunities, to consult the temper of the people, the condition of the country, and the dispositions of powerful leaders. It is from want of due regard to considerations like these, that the theory of the English representation has, of late years, been disfigured by various and opposite kinds of reasoners. Some refuse to acknowledge any principles on this subject, but those most general considerations of expediency and abstract justice which are applicable to all governments and to every situation of mankind. But these remote principles shed too faint a light to guide us on our path, and can seldom be directly applied with any advantage to human affairs. Others represent the whole Constitution as contained in the written laws, and treat every principle as vague or visionary, which is not sanctioned by some legal authority. A third class, considering (rightly) the representation as originating only in usage, and incessantly though insensibly altered in the course of time, erroneously infer, that it is altogether a matter of coarse and confused practice, incapable of being reduced to any theory. The truth is, however, that out of the best parts of that practice have gradually arisen a body of maxims, which guide our judgment in each particular case ; and which, though beyond the letter of the law, are better defined, and more near the course of business, than general notions of expediency or justice. They are often disregarded, and never rigorously adhered to. They have no support but a general conviction, growing with experience, of their fitness and value. The mere speculator disdains them as beggarly details, — the mere lawyer asks for the statute or case on which they rest, — the mere practical politician scorns them as airy visions. But these intermediate maxims constitute the principles of the British constitution, as distinguished, on the one hand, from abstract notions of government, and, on the other, from the provisions of law, or the course of practice. ‘ Civil



‘ knowledge,’ says Lord Bacon, ‘ is, of all others, the most immersed in matter, and the hardest reduced to axioms.’ Politics, therefore, if it should ever be reduced to a science, will require the greatest number of intermediate laws, to connect its most general principles with the variety and intricacy of the public concerns; but in every branch of knowledge, we are told by the same great master\*, that while generalities ‘ are barren, and the multiplicity of single facts present nothing but confusion, the middle principles alone are solid, orderly, and fruitful.’

The nature of virtual representation may be illustrated by the original controversy between Great Britain and America. The Americans alleged, perhaps untruly, that being unrepresented, they could not legally be taxed. They added, with truth, that being unrepresented, they ought not constitutionally to be taxed: but they defended this true position, on a ground untenable in argument. They sought for the Constitution in the works of abstract reasoners, instead of searching for it in its own antient and uniform practice. They were told, that virtual, not actual representation, was the principle of the Constitution; and that they were as much virtually represented as the majority of the people of England: And in answer to this, they denied that virtual representation was a constitutional principle, instead of denying the *fact*, that they were virtually represented. Had they chosen the latter ground, their case would have been unanswerable. The unrepresented part of England could not be taxed, without taxing the represented. The laws affected alike the Members who passed them, their constituents, and the rest of the people. On the contrary, separate laws might be, and were, made for America; separate taxes might be, and were, laid on her. The case of that country, therefore, was the very reverse of virtual representation. Instead of identity, there was a contrariety of apparent interest. The English landholder was to be relieved by an American revenue. The prosperity of the English manufacturer was supposed to depend on a monopoly of the American market. Such a system of governing a great nation was repugnant to the principles of a constitution which had solemnly pronounced, that the people of the small territories of Chester and Durham could not be virtually represented without some share of actual representation.

It may be doubted, whether the common opinion, that the Treaty of Union took away the antient prerogative of granting the elective franchise, can be maintained on grounds of law. The letter of the Treaty is silent. The Crown could hardly be deprived of such a prerogative by mere implication; and it might as well perhaps be inferred, from its provisions, that it restrained the King from adding to the number of British Peers, as that it disabled him from adding new members to the House of Commons. It may be doubted, whether the power is legally abolished: but the attempt to resume the exercise of so great and dangerous a power, otherwise than by consent of Parliament, would undoubtedly be unconstitutional; and the minister who advised it would deserve to be impeached. Since its disuse, the Constitution has in other modes shown its tendency, on fit occasions, to promote the ascendant of the more important interests in the House of Commons. When it became necessary, at the treaty of Union, to reduce the num-

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\* Novum Organum.



ber of Scotch members in the Parliament of Great Britain, the representatives of the boroughs were reduced from sixty-six to fifteen. The principal towns were unfortunately not selected (as afterwards in Ireland); but the whole were divided into districts, according to the example of Cromwell's parliaments. When the like necessity arose in the case of Ireland, a similar regard was shown to the representation, both of property and numbers. Sixty-four knights of the shire remained as before. The cities of Dublin and Cork continued to elect two citizens for each. Thirty-one towns next in importance, and the University of Dublin, were each reduced from two members to one; and the remaining one hundred boroughs were entirely deprived of their parliamentary franchise. This measure, combined with the grant of the elective franchise to Catholics in 1793, introduced a Parliamentary Reform into Ireland which wants little to be complete, except the admissibility of Catholics to Parliament and to the higher offices of the State.

This rare exercise of the power of reformation was, however, more valuable as a declaration of constitutional principle, than as a substitute for the antient prerogative. The period of the disuse of that prerogative was in one respect singularly remarkable. The want of it would have been little felt in antient times: for few changes then occurred which called for its exercise. The progress of the nation in numbers and wealth was then extremely slow; the establishment of industry in new seats was a rare occurrence; the change in the condition and importance of various classes of men was so gradual as scarcely to be remarked by contemporary observers. Had no such prerogative existed, the only consequence, as far as relates to the present view of the subject, would have been, that five or six considerable towns, not of the first class, would have been without representatives. Since the disuse of the prerogative, on the contrary, the progress of population and riches has been more rapid, and the change in the relative importance of different classes of society greater, than during any equal period in the history of the world. Villages have since sprung up into immense cities; great manufactures have spread over wastes and mountains; ease, comfort, and leisure have introduced, among the middling classes of society, their natural companions, curiosity, intelligence, boldness, and activity of mind. A much greater proportion of the collective knowledge and wealth of the nation has thus fallen to their lot. But the power of establishing some proportion between political rights and social importance was no longer exercised. Their constitutional privileges were not increased with their consequence in the community. The Constitution no longer opened her arms to receive rising classes and communities into her bosom, as she might have done in preceding ages. The regulator dropt from the representative system, at the very moment when its action was most necessary to make the frame of the government conform to the changes in society.

The struggles of the Commons of England to possess a share of political power, proportioned to their share of property and knowledge, was the principal cause of the civil wars between Charles I. and his Parliament. The Court, blind to the changes which had been produced on public opinion, laid claims to higher authority, at the time when the people were eagerly desirous of a better secured liberty. We are told by Lord Clarendon, that 'Lord Keeper Coventry knew the temper, genius, and disposition of the country most exactly, and saw their

‘ spirits grow every day more sturdy, inquisitive, and impatient, and therefore naturally abhorred all innovations’ (on the side of the Crown), ‘ which he foresaw would produce ruinous effects.’ Since the Revolution, a far greater diffusion of property and intelligence has produced a new struggle. Class after class, as they rise to consequence, become ambitious of a larger share of that collective power which the body of the Commons gained from the Crown. While the political public was thus augmenting, the Constitution was confined to its former dimensions. It was not, however, till the great impulse given to English industry, in the middle of the eighteenth century, that the disparity between the old system of representation, and the new state of society, became very remarkable. This was very soon followed by the sudden and enormous growth of the manufacturing towns. Then, for the first time, were seen several of the most important places in the kingdom without any direct share in the national assembly. The new manufacturing interest itself was left without any additional provision for its adequate representation. The original defect of our representative system, which, while it provided for the influence of great property, and secured a regard to the voice of the multitude, did not allot a sufficient share of power to the middle class, became, in this state of things, more apparent and more humiliating.

It has been the object of this deduction to show, that the proposed reform is agreeable to the antient practice of the Constitution; that the evil has arisen from the rapid progress of society since the interruption of that practice; and that its revival, under wise regulations, would be a sufficient remedy. If these conclusions be just, the *safety* of this reform cannot be denied. No man who adopts it is bound, by just inference, to support other changes not warranted by the practice of the Constitution. He is not to seek that practice in dark or fabulous periods; he is bound to no principle, but that which has been explicitly and frequently declared by the Legislature itself, — that it is expedient to connect all our great communities with the national representation. In paying up the arrears of a representation, unrevised for a century and a half, it is not proposed to make a greater addition to the House of Commons than Mary Tudor made by her prerogative in five years. A small part of what Edward and Elizabeth did to strengthen the Protestant interest is suggested as expedient for healing the wounds of the community, and binding numerous classes of men more firmly to the Constitution. It may, indeed, be objected, under this head of safety, that popular elections would introduce into these towns the usual consequences of mobs and riots. This apprehension of some of the more opulent inhabitants might formerly have been excusable; but the experience of the last three years may convince them, that the absence of elections has no tendency to preserve their quiet. At any time, indeed, such objections show either weak nerves, or obstinate prejudices against the popular parts of the Constitution. There cannot be a more unreasonable apprehension, than that an elective system, which has for ages been used with advantage and safety in most parts of the kingdom, should suddenly prove dangerous and destructive on its extension to a few more towns.

But though few, who are not determined enemies to all Reform, will deny the safety of the alteration here proposed, (though it be obvious that it has fixed and visible boundaries, and is wholly unconnected with all projects of indefinite change,) it may, and doubtless will, be



rejected by many opponents of innovation as *unnecessary*, and by many zealous reformers as *inadequate*.

It is said, that the local interests of the unrepresented towns are as fully made known, and as uniformly protected, in the House of Commons, as those of other places; that due weight has always been allowed to their sentiments on national questions; and that the prodigious increase of the power of public opinion, has procured for every portion of the people, that degree of influence on Parliamentary proceedings, which, in former ages, they could have obtained only through the channel of direct representation. The petitions of Birmingham and Manchester, it is contended, are as warmly supported, and as fully considered, as those of Liverpool and Bristol; and the political sentiments of Yorkshire have always been more regarded than those of Cornwall. Although the representation has continued unchanged, the course of circumstances has given a share of influence, on the measures of Parliament, to each class and district, proportioned to its relative importance.

In answer to these arguments, it is not necessary to deny that they have a foundation in truth. It must be admitted, that the habitual regard necessarily paid by the Body of the House of Commons to the whole people, has, in practice, corrected many of the defects of inadequate representation. The influence which the collected opinion of an enlightened nation must possess over a legislative assembly of sufficient numbers, deliberating in public, and originating in any degree from the people, is no doubt a considerable substitute for popular election. It may be added, that opinion is a flexible instrument, which ascertains the real value of the sentiments of each class, according to the nature of the question and the circumstances of the time, with an exactness and delicacy not to be attained by any permanent distribution of representatives.

These observations are sufficient to show, that the members of a legislative assembly ought not to consider themselves as delegates from districts, bound by the instructions of their own constituents. They show also the convenience of so framing the election of a certain portion of the members as to render them less susceptible of local influence, more impartial, more in fact, what all are in law, the representatives of the whole people.

But the useful influence of public opinion will not be weaker under the amended representation than it is at present. There will still remain many defects for it to supply, and many irregularities to correct. Can a prudent friend of the Establishment really think that it is consistent with wise policy to exclude men from the appearance of power, because they have gained a great deal of the reality? Democratical ascendancy exists in its most dangerous form when numerous bodies have acquired great strength from circumstances, and derived no political power from the Constitution. The holder of a legal franchise becomes attached to the Government. A man who possesses importance, without a franchise, is apt to imagine that he has grown strong in spite of adverse laws. Our antient policy did not trust the preservation of order and liberty to those general principles of morality which, in all countries, influence the conduct of good citizens; it bound all classes, by ties of pride and attachment, to a system which bestowed important privileges on all. As every new class arose, it was fastened to the Government by these constitutional links. This policy



left no class politically powerful, who did not visibly draw their power from the Constitution.

The elective franchise, when considered with respect to the whole community, is indeed chiefly valuable as a security for good government. But, in relation to individuals, it may be regarded as an honorary distinction,—the object of their natural and legitimate ambition, which they pursue with eagerness, and exercise with pleasure. Its refusal without necessity mortifies or irritates. Those feelings are still more natural to intelligent and wealthy communities than to individuals,—and the politician must not censure them. In their natural state, and under skilful management, they are among the strongest holds of a political system on the affections of a people. In a great represented town, almost every man may reasonably expect to be an elector: many may hold office in their town,—some may hope to represent it in Parliament. In the lowest of these stations, there is room for the display of talent, for the acquirement of popularity;—there is scope for fair ambition. At the return of an election, almost every man becomes of some importance. It may to some sound trifling to observe, that all these exertions and pursuits are attended with pleasure, and that the whole of those pleasures are far from an imperceptible item in the account of national enjoyment.

But it ought, at least, to be remembered, that the holders of such privileges are attached to them, zealous in their defence, and not fond of sharing them with new partners. They all, therefore, feel an interest in preserving the Government, on which their privileges depend;—they are garrisons, placed by the Constitution in these towns, to preserve their quiet and ensure their fidelity. The unrepresented towns are destitute of these advantages.—There, there are no regular channels into which political activity may flow,—no lawful objects of local ambition. There are no gradations of employment, through which the humble politician may be raised by the good-will of his neighbours. His ambition is driven to seek illicit enjoyments by the severity of hostile laws. There is no wardmote, or common council, in which he can seek distinction,—no election, in the tumults of which his turbulence has a periodical vent. The poor have nothing to bestow by their suffrages, so that the rich are not obliged to pay them even occasional court. That Bristol and Liverpool have of late been more quiet than Manchester and Leeds may indeed be ascribed as much to the nature of their industry, as to their political situation. Something, however, must be attributed to the latter cause. The represented towns were better secured against turbulence, and the unrepresented were more exposed to it. In manufacturing towns, the want of representation is attended with another great evil, very much connected with the former. The same causes which foster a dangerous disposition to disorder and violence, prevent the formation of a magistracy which might restrain them. In the country of England, where the legal power of Justices of the Peace is usually engrafted on the natural authority of a landholder, and where, though an officer of the Crown nominates them, character and property generally direct his nomination, the administration of the ordinary magistracy is peculiarly easy and happy. In the manufacturing districts there are few resident landholders. The master manufacturers employ such multitudes of workmen as no longer to retain that influence which they possess where manufactures subsist on a smaller scale. The frequency of the



disputes between them and their workmen has in some places excluded the masters from the commission of the peace. There are no means of governing such towns but a municipal constitution, by which they may elect their own magistrates. They are in circumstances in which there is no natural source of authority but popular election. But such a municipal constitution cannot be well disjoined from Parliamentary representation. They are successfully combined in the ordinary course of our Government; and a little reflexion will discover, that the connection is not casual. Men of ability and activity undertake the laborious office of magistrates, in order to recommend themselves to the favour of their fellow-citizens, and to obtain objects of political ambition. They are paid in importance, instead of being lowered in the eyes of their fellow-citizens, by receiving salaries. Their political consequence, and the dignity of some of the objects to which they may aspire, insensibly strengthen the authority of their magistracies; and the mayor or alderman is more easily obeyed, because he may rise to represent his town in Parliament.

But the main ground of political expediency for this change is, that it furnishes the only means of counteracting the growing influence of the Crown in the House of Commons. This influence may, indeed, be directly reduced; but it arises out of a great variety of offices and establishments, of which the abolition or reduction may sometimes be difficult, and the re-establishment or even increase of which may, under other circumstances, become necessary. Direct reduction, therefore, is not alone sufficient; and the only simple and permanent means of balancing the Parliamentary influence of the Crown is to increase that of the people. Formerly, the great proprietors were able to keep the Monarchy in check; but the increasing influence of the Crown on one hand, and the growing independence of the people on the other, have in this important particular materially changed the state of our society. The Crown and the multitude have risen, — the influence of the great proprietors has sunk. They are no longer sure of being followed by the people, or capable of making head against the Crown, without popular support.

If the influence of the Crown were conducive to the safety of the Monarchy, it might be doubted whether this be the moment for reducing that influence, or providing securities against it. But the excess of this ministerial influence endangers, instead of securing, the Monarchy. The only danger to which that form of government can ever be exposed among us, is its becoming unpopular, and being thought inconsistent with liberty.

The House of Commons itself has also need of being strengthened by popularity. The ascendant which that assembly has acquired since the Revolution has been attended with one change, which may ultimately prove fatal to its power. In becoming a governing senate, it necessarily lost much of the character of a popular representative. That national support, which rendered it irresistible in all the struggles of the last century, was gradually withdrawn, and at length converted into a jealousy; of which power, wherever it is seated, is the proper object. To be a part of a government, and a check on it, are things which it is very difficult to reconcile. That assembly, as exercising their power, and as a political council, early and often forgot their old province as a House of Commons. Fifty years ago it was said by Mr. Burke, that, ‘it could not then, to any popular purpose, be called

‘ a House of Commons.’\* In succeeding times, the deviations from their original character became greater and more frequent; and of late years, whether from their own fault, or from the skill and malice of their enemies, it can no longer be asserted that their power is founded on the confidence and attachment of the people. If this state of things should continue, their apparent strength will not long conceal their real weakness. The decay of their power will soon become visible, and it will perish in the first struggle. It will prove alike incapable of controlling the Crown, or of protecting it against the violence of the multitude. A House of Commons, from which the people is long detached, cannot ultimately preserve even its existence. Against these dangers, the House of Commons can have no safety but from a new infusion of that popular spirit which once enabled them to resist and depose kings, and call new royal families to the Throne. In losing popular attachment, they have lost the only solid foundation of their power: they can recover their strength only by renewing their alliance with the nation, and multiplying the ties that connect them with the people at large.

Many of the zealous reformers will doubtless consider this addition to the popular representation as inconsiderable, and inadequate to the correction of the evils which they discover in our government. In point of mere numbers, it is certainly not very considerable; but other circumstances are, in these cases, more important than numbers. Twenty members, of popular talents and character, representing the most populous districts in England, and depending for their seats on popular favour, would greatly strengthen the democratical principles in the House of Commons. It would be a substantial addition to the power of the people. Whoever considers the talent, zeal, and activity which must belong to these new members, will soon discover that their number would form a most inadequate measure of their strength.

Those who would undervalue this concession would do well to consider how much more they are likely to gain, without paying too high a price for it. Do they expect that much more will be granted, under the auspices of a constitutional administration, — with the acquiescence of the proprietary classes, — and by the lawful authority of Parliament? Can they hope to obtain more at the present time, consistently with public quiet, the maintenance of the Constitution, the execution of the Laws, and the security of Property and Life?

The *Second* part of our Plan would be the adoption of more effectual means for the disfranchisement of delinquent boroughs. This is a part of the subject, on which the principles are very evident; but the means of carrying them into effect are not so clear. The elective franchise is a political right, conferred on individuals for the public advantage: as such, it may be withdrawn for adequate reasons of general interest. But it is also a privilege and advantage to the holder; of which, without strong reasons, he is not to be deprived. It holds a middle station between office and property: — like the former, it is a trust; but it is one which ought not easily or often to be withdrawn. On the other hand, as the advantage of the holder is only one of its secondary objects, it has not the sacred and inviolable nature of Property. The supreme power which gave it may withdraw it, — not indeed on light grounds, but without either that degree of delinquency,

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\* Burke's Works, vol. i. p. 164, quarto Ed.



or that sort of evidence, which might be required in the forfeiture of a purely private right. It is not, either in principle or prudence, variable at will; nor is the Legislature bound, in its abrogation, to observe the rules of courts of judicature.

The disfranchisement of those boroughs which have been proved to abuse their franchise is, therefore, founded on constitutional principles, as well as warranted by modern practice. Where corruption has prevailed to such an extent, and under such circumstances, as to render it possible that its prevalence would be permanent. Parliament has, in recent times, adopted measures, which produced practical effects nearly similar to those of actual disfranchisement. The first corrective statute passed for this purpose was that relating to New Shoreham (11 of Geo. III. c. 55), in which the individual voters, proved to be guilty of bribery, were disfranchised by name, and the right of voting at future elections for that borough was bestowed on the surrounding district, called the Rape of Bramber. In the cases of Cricklade and Aylesbury (22 Geo. III. c. 31, and 44 Geo. III. c. 50), the former part of the precedent was not followed. No offenders were disqualified by name; but the right of voting for these boroughs was extended to the freeholders of the adjacent Hundreds. The object of these acts was chiefly remedial;—to substitute a pure constituent body, for one that had been found corrupt. It may also be considered as in some measure penal; inasmuch as, in the two smaller boroughs at least, the addition of so large a body of voters took away the whole value and efficacy of the franchise in the hands of the old electors. In effect, the right of voting was transferred from Shoreham and Cricklade to the surrounding country. Had the proceedings on which these acts were founded been considered as of a criminal, or even of a judicial nature, it would have been impossible to justify their provisions. If they had been viewed in that light, it must at once have been seen that they inflicted punishment on the pure voters for the offences of the impure, and on succeeding generations for the faults of the present. But they were measures of local reform; and the evidence necessary for them was, not that which justifies a conviction for a crime, but that which is sufficient to show the propriety of an act of legislation. Other notions, however, prevailed under the patronage of lawyers, who carried the narrowest habits of their profession into legislative discussions, who opposed the above measures, and defeated others, equally necessary, of a like nature, with the force of great ability, and the authority of high station. The utmost subtilty of the rules of evidence was enforced; objections, merely technical, were allowed to exclude satisfactory information. The English law of evidence, singularly, and perhaps excessively narrow and exclusive in its rules, was permitted to control the inquiries of a Legislative Assembly. By these arts of Parliamentary pettifogging, corrupt boroughs have been so frequently rescued from the grasp of the law, that it now requires great zeal and patience to undertake the seemingly hopeless enterprise of assailing them: and it is apparent, that unless there be some material reformation in the law, or, at least, in the practice of Parliament, on this subject, it will be in vain to expect success even for these very limited reforms. The interest of many individuals is always engaged in the delinquent borough. The electors in the town—some of the proprietors in the neighbourhood—the jobbers who sell the burgesses—



the candidates who have bought, or hope to buy them, supported by the fellow-feeling of those who have the like interest in other towns, — are a powerful and permanent phalanx, with whom it is very difficult for the zeal of a few volunteer reformers to cope. The jobbers are well versed in all the stratagems of political chicanery. They know how to raise a clamour in one House, or to split hairs in another; they harass their adversaries by vexatious cavils, and tire them by protracted discussions; and they generally end in wearing out, if they cannot defeat, the most active and able reformers. The success of these low expedients, and the countenance shown them by the highest and gravest authorities, have done more, perhaps, than most modern proceedings, to lower Parliament in the general estimation — to disgust the faithful friends of the Constitution — to persuade many moderate reformers, that cautious improvement is as really, though less openly, resisted, than the wildest innovation — and to drive virtuous men, despairing of constitutional remedies, to the perilous experiments of indefinite change.

It must be allowed, that it is easier to state the mischiefs of the present mode of proceeding on this subject, than to suggest an unexceptionable and efficacious remedy. Several plans have, at different times, been the subject of consideration. It has been proposed, that in all cases where the Committee for the trial of a controverted election shall report the existence of corruption, after due notice given to the voters, the Report shall be referred to another Committee, chosen in the same manner, who, after hearing evidence on both sides, shall have the power to decide, whether the franchise of the borough shall not be transferred to some other community. The decision of this second Committee might be made final; or, if that were thought too much, the evidence taken before the Committee might be made the only proof which either House of Parliament were to receive on the case. If either of these proceedings were thought too great a departure from former practice, they might be moderated in more than one way. The concurrence of two-thirds of the Committee, for instance, might be made necessary to the determination. The Report might be referred to a Committee of the Lords, constituted in the same manner as the Election Committees of the Commons; and their assent might be made necessary to the transfer. But this is not the time, or the place, for the discussion of particular remedies. It, perhaps, deserves consideration, whether, if any change were to be made, it would not be convenient to introduce a scale of proceedings suited to the various degrees of corruption discovered in different cases. In the least degree, a *suspension* of the franchise might be sufficient; in a higher, the delinquent borough might be deprived of *one* of its members; the strongest remedy being reserved for the most aggravated cases.

Our principles would naturally lead to a transfer of the forfeited franchises, as the cases arose, to unrepresented towns, of a population of 15,000 and upwards, till all these communities were fully and directly represented. But as the increase of the number of the House of Commons is a great inconvenience, it would probably be more expedient, to employ the first ten forfeitures in reducing that Assembly to its present number; to which twenty would be added, if the first article of the plan were adopted.

There is no doubt that if the power of disfranchisement were vigorously exercised, it would not only speedily reduce this excess,



but would regularly continue to recruit the popular representation. It would also, in no very long time, greatly abate, at least, that venality which, having become more notorious, and being more skilfully displayed in modern times, has deeply impaired the general reverence for the Constitution.

However admirable the result of a political system may be, it is a great misfortune that the means by which its institutions are executed should be strongly disapproved by the plain sense and natural feelings of men. A scandal is always a great source of weakness. It lessens the attachment and alienates the opinion of the majority; and may ultimately undermine the foundations of any Government. The removal of a scandal is itself a sufficient reason for reform.

Some may perhaps wonder, that disfranchisement is so strictly limited to the cases in which corruption has been proved. Many of the moderate reformers have proposed to extend it much farther, and to apply it to all cases where there was no likelihood of a pure or independent exercise of the right of election. The plan of Mr. Pitt proposed to purchase the elective privilege from fifty of the more inconsiderable boroughs, who should be willing to part with it. Mr. Lambton, a gentleman equally respectable for character, talents, and public principle, proposes to abolish all corrupt, decayed, and dependent boroughs. It will be sufficient, for the present purpose, very shortly to state one or two of the numerous objections which present themselves to these more extensive plans. In the *first* place, no such disfranchisement is known to the practice, or even the principles, of the British Constitution. It has often *bestowed* the elective franchise on grounds of general utility; but it has never, on such grounds alone, taken that franchise away. All political questions, indeed, are to be determined on the principles of *utility*: but it is very useful to a free commonwealth to adhere to its fundamental institutions; and whenever a substantial reform can be effected agreeably to their principles, it is generally unwise, for the sake of quicker reformation, to act on maxims hitherto untried. The Reform here proposed is limited by the practice of the English Constitution. It proposes nothing unauthorized by that practice; and it offers that security to all who adopt it against its leading to consequences which cannot be foreseen or conjectured. The more extensive plan, on the other hand, quits the solid ground of the practice of the Constitution, and ventures on the slippery path of general speculation. It necessarily appeals to principles, which, in the hands of other men, may become instruments of farther, and of boundless alteration. *Secondly*, We doubt whether the caution, hitherto observed in this respect, be not founded on true wisdom. It is the policy of a free state to keep up the importance and dignity of popular privileges. The right of election, the first of them all, ought to be held high. The Body of Electors ought to be considered as a sort of nobility, from which the members are not to be too easily degraded. As a Monarchy and Aristocracy have their splendour, so Democracy has its own peculiar dignity, which is chiefly displayed in the exercise of this great right. There is something, in our opinion, truly republican in the policy which places the elective franchise and the royal dignity on the same footing, — which secures both from being destroyed on mere speculations of general convenience, and which pronounces the forfeiture of both, only where there is a gross and flagrant violation of the trust from which they are derived. *Thirdly*, It must be observed, that the

power of disfranchisement is capable of great and dangerous abuse. The majority of a legislative body might employ it to perpetuate their own superiority, and to destroy every power that could withstand them. If the example were once set, of using it on mere grounds of convenience, it would be easy to find, on every occasion, plausible pretexts of that nature. As long as it is confined to cases of delinquency, it cannot be so abused; but if it were once freed from that restraint, it would become unlimited, or, in other words, despotic.

The transfer of forfeited franchise to populous communities affords a most convenient means of quietly widening the basis of Representation. It bestows the privilege on every numerous body, in proportion as they are ambitious to acquire it, and well qualified to exercise it. Political power is thus made to follow in the train of knowledge and wealth; and the Constitution perpetually, but insensibly, adapts itself to the progress of civilization. A representative system thus restored to its original flexibility, may, like the works of nature, perpetuate itself by constant change, and always yield some ground to progressive opinion, without struggle or conflict, without humiliation or defeat.

Besides these great ends, it might, in process of time, be subservient to other purposes. A Colonial Representation may one day be considered as a probable means of preserving the unity of the empire.—Such a representation, combined with other means, might also open honourable seats for the monied interest, if measures of reform should be found to have too much narrowed their access to Parliament. If some representatives were in time to be allowed to learned societies, it would not be a greater novelty than the grant of that privilege to the two Universities by James I. If occasion were taken to give an additional member to the University of Dublin, one member to that of Edinburgh, and one to the other Scotch Universities, (the votes of each being proportioned to the number of students,) the direct share of science in the national representation would not be enormous. It would be easy to show, by other examples, the use to which the ample fund of forfeited franchise might in time be turned; but the above are perhaps more than enough, where the object is to suggest illustrations of a principle, not parts of a plan.

Our *Third* head will comprehend a few observations on the representation of Scotland; which, being of a nature quite unlike that of England, requires a separate consideration. The reader will observe, that this question is perfectly distinct from that of a *Reform of the Scotch Boroughs*, which has been prosecuted by Lord Archibald Hamilton with so much ability and perseverance. The object of the latter is only such an improvement in the election of the Magistrates and Town Councils of the boroughs, as may ensure a right administration of their revenue and police, in which scandalous abuses have been proved to be generally prevalent. It would be a strange objection to such an alteration to say, that it may incidentally, and in a small degree, affect the election of the fifteen Commissioners for Scotch Boroughs. That man must indeed be a sturdy zealot on the side of abuse, who should object to the correction of such acknowledged corruptions, merely because it gave a little influence to the people of these towns in the choice of their members.

In Scotland there is no popular election: all the Boroughs are in the hands of what would in England be called Close Corporations. The whole number of voters for the thirty-three Counties of Scotland is



about 2700; the greatest number in any single county does not exceed 300; and in some, they are, we believe, less than thirty. This is not the Constitution of England.—The English representation is a combination of Aristocracy and Democracy, in almost all their possible forms and degrees: to which the Scotch mode of election is as opposite as Universal Suffrage itself. The freedom of England is the security for the good government of Scotland; but the English Constitution, in its highest sense, has not been communicated to the Scottish nation. We are not so sunk in Toryism as to imagine that it is possible to have the English Constitution without popular election. Of all the practical irregularities in our Government, perhaps, the condition of the people of Scotland is the most striking. The most timid reasoners have generally confessed, that political privileges may be diffused in proportion to the diffusion of morality and knowledge: yet the body of the people of Scotland, celebrated throughout Europe for intelligence, for virtue, for a sober and considerate character, are rigorously excluded from all direct influence on the National Councils.

The right of election in Scotch counties is so foreign to the present usages of England, that it may be difficult to give an account of it, in few words, to an English reader. It is confined to those who hold land to a certain extent directly of the King. ‘Hence,’ says Mr. Wight, whose work is an authority on Scotch Election Law, ‘many persons ‘are possessed of large estates, who are incapable to elect or be elected ‘commissioners to Parliament, because they only hold them of subjects ‘superiors; while, on the other hand, many, by holding immediately of ‘the Crown, are entitled to that privilege, although their estates (consisting of a bare superiority) do not perhaps yield them a penny in ‘the year.’\* By the original constitution of the Scottish Parliament, no landholders were required to be present, except those who were called by the antient statutes ‘Freeholders of the King;’ that is, tenants in chief of the Crown. When the representation of counties was introduced by James the First in 1427, the right to elect representatives was of course confined to these tenants in chief, who, amidst all successive changes of the law, have continued exclusively to possess it. If A, being a tenant of the Crown *in capite*, conveys all his land to B, *to be holden of himself*; A remains the tenant of the Crown, and retains, as such, a right to vote for the land, though the use and profit of it be completely transferred to B. B, the proprietor, has no vote; while A, who continues to be his superior, is the voter. Superiority, to which the right of suffrage is annexed, may be entirely separated from any beneficial interest in the land. Votes, in right of land, may thus be possessed by those who are not landholders. Many voters in most counties in Scotland are in this predicament; and there does not seem to be any legal impediment, except in the case of entailed estates, to the universal separation of the right of suffrage from the property of the soil. In proposing a remedy for this case, it would be wise to give no disturbance to established rights, and to allow the present Freeholders to retain their suffrage. It would be perhaps sufficient, in addition to them, to give the right of voting to all proprietors of land of a certain value, what-

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\* Wight on Parliament, Book iii. ch. 2.

ever their tenure might be. The present qualification of commissioners of supply, (*i. e.* commissioners of the land tax,) which is about 10*l.* sterling a year, might be adopted in the case of the new freeholders.

In the boroughs, it might be sufficient, if the right of voting at the election of the town-council were, in towns above a certain population, to be vested in those burgesses who occupy tenements of a yearly rent to be specially fixed. In that case, the right of choosing delegates to elect the members might continue as at present; and provision might be made to give that permanency to the power of the magistrates, which the duties of that office require. In those inconsiderable villages, which form the majority of the Scotch boroughs, it may be doubted whether the resident burgesses could be moulded into a good constituent body. In great cities, such for example as Edinburgh, where the more considerable inhabitants are seldom burgesses, some share of privilege might be bestowed on such householders as occupied tenements of double or treble the yearly rent which should be fixed on as the qualification of burgesses.

In returning to English representation, the means of reducing the expense of elections form a separate and very important branch of the subject. In all elections, great expense aids the natural power of the highest wealth, and, in the same proportion, lessens both the importance of the smaller proprietors, and the efficacy of public opinion. The power of great property is indeed a principle of liberty, as well as of order. It opposes a sort of hereditary tribuneship to the Crown, and it furnishes a body of mild magistrates, whose natural and almost unfelt authority often prevents the necessity of legal restraint or military interference. But this useful power, which must always be strong, in proportion as liberty is secure, may be carried to an excess. The great expenses of county elections, which deter men of moderate fortune from competition for a seat, are justly complained of. Something might be done to abate this inconvenience, by authorizing the Sheriff, in the greatest counties, to take the poll at different places in succession. The laws against treating, and the payment of expenses, have hitherto been always either inactive or vexatious. They have in general been disregarded; and in the few instances in which they have been enforced, it has been either as an election manœuvre, or for the gratification of personal malice.

After all, however, the power of great wealth in *counties*, exercised quietly in the form of permanent influence, and blended with feelings of respect and attachment towards the hereditary owners of the soil, is not to be regarded as altogether an unmixed evil. It is in the elections for *towns*, that the action of wealth is most undisguised and odious: and the most inconvenient instances of it arise, perhaps, from the right of non-resident freemen to vote for great towns. These non-residents, now spread in great numbers over the country, are in general of the lowest condition, unable to defray the charge of going to the place of election, and willing to vote for any candidate who will pay for the pleasures of their journey. They are often numerous enough to decide the election; so that the chance of success may be exactly determined, by knowing how much each candidate can afford to spend. Venality has here no decent disguise. The power of wealth is not purified by association with better feelings. There are not here, as in cases of the permanent influence of property, any long



habits of respect for superiority, or any sentiments of gratitude for kindness. The effect of this is an undisguised triumph of money alone over every sort of natural influence. The manufacturer, the trader, the landholder of the neighbouring county, are put to flight by an adventurer, who need not possess even wealth, if he can dispose of a sum large enough to purchase the votes of non-resident voters. The obvious remedy for this grievance would be, to require every freeman to be resident in the borough for which he claims to vote, for six months previous to the day of election,—according to the present law, in those rights of voting which depend on inhabitancy.\*

*Fifthly*, It is to be observed, that a repeal of the disabilities which affect the Catholics may, in one point of view, be considered as a measure of Reform. It is in itself just and wise: the majority of its friends are not reformers; and its necessity is demonstrated by arguments which are wholly unconnected with any change in the frame of Parliament. But it is also a consequence from the principles of representation which we have been endeavouring to establish. The English Catholics are a large and respectable body of men, who do not possess the elective franchise. The class is unrepresented, and possesses no political security for its common interest, which is the enjoyment of religious liberty. The Irish Catholics, indeed, possess the elective franchise; but they are inadequately represented, because they cannot chuse members who, being of the same faith with themselves, have a like interest in defending the free exercise of their religious worship. The Catholics probably form a fifth part of the inhabitants of the British islands. That so great a body should be left without representatives, or restricted from chusing those who are best qualified to guard their highest interest, is not a casual or trivial irregularity, but a great practical evil, and a gross departure from all our antient principles of representation.

The only matter which remains for consideration, is, whether any change should be made in the Duration of Parliaments. It is here placed last, because it seems to be the Reform which ought to be last in the order of time. As long as every other part of the elective system continues, it is doubtful whether more frequent elections would not rather increase, than diminish, both the power of wealth and the influence of the Crown. It is true that, on the eve of a general election, a septennial Parliament has commonly shown more deference for the opinions of their constituents than on other occasions. But, on the other hand, the more frequent occurrence of a ruinous expense would deter prudent and respectable men from offering themselves; and might thus throw a greater number of seats into the hands of adventurers or of the Court. When the expense of elections, however, is reduced, and the basis of representation widened, we are clearly of opinion that it will be also proper to shorten the duration of Parliament.

The principle of short Parliaments was solemnly declared at the Revolution. On the 29th of January 1689, seven days after the Convention was assembled, the following Resolution was adopted by the House of Commons. ‘Resolved, That a Committee be appointed to bring in general heads of such things as are absolutely necessary to be considered, for the better securing our Religion, Laws, and Liberties.’

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\* St. 26 G. III. c. 100.

Of this Committee Mr. Somers was one. On the 2d of February, Sir George Treby, from the Committee thus appointed, reported the general heads on which they had agreed. The eleventh article of these general heads was as follows: 'That the too long continuance of the same Parliament be prevented.' On the 4th of February it was ordered, 'That it be referred to the Committee to distinguish such general heads as are introductive of new laws, from those that are declaratory of antient rights.' On the 7th of the same month, the Committee made their Second Report; and, after going through the declaratory part, which constitutes the Bill of Rights as it now stands, proposed the following, among other clauses, relating to the introduction of new laws:— 'And towards the making a more firm and perfect settlement of the said Religion, Laws, and Liberties, and for remedying several defects and inconveniences, it is proposed and advised by \*

Commons, that there be provision, by new laws, made in such manner, and with such limitations, as by the wisdom and justice of Parliament shall be considered and ordained in the particulars; and in particular, and to the purposes following, viz. for preventing - - - - and for preventing the too long continuance of the same Parliament.' The articles which required new laws being thus distinguished, it was resolved on the following day, on the motion of Mr. Somers, 'That it be an instruction to the said Committee, to connect, to the vote of the Lords, such part of the heads passed this House yesterday as are declaratory of antient rights; leaving out such parts as are introductory of new laws.' The declaratory articles were accordingly formed into the Declaration of Rights; and in that state were, by both Houses, presented to the Prince and Princess of Orange, and accepted by them, with the Crown of England. But the articles introductive of new laws, though necessarily omitted in a Declaration of Rights, had been adopted without a division by the House of Commons; who thus, at the very moment of the Revolution, determined, 'that a firm and perfect settlement of the Religion, Laws, and Liberties,' required provision by a new law, 'for preventing the too long continuance of the same Parliament.'

But though the principle of new Parliaments was thus solemnly recognised at the Revolution, the time of introducing the new law, the means by which its object was to be attained, and the precise term to be fixed for the Duration of Parliament, were reserved for subsequent deliberation. Attempts were made to give effect to the principle, in 1692 and 1693, by a Triennial Bill. In the former year, it passed both Houses, but did not receive the Royal assent. In the latter, it was rejected by the House of Commons. In 1694, after Sir John Somers was raised to the office of Lord Keeper, the Triennial Bill passed into a law. It was not confined, like the bills under the same title, in the reigns of Charles I. and Charles II., (and with which it is too frequently confounded,) to provisions for securing the frequent sitting of Parliament. It for the first time limited their duration. Till the passing of this bill, Parliament, unless dissolved by the King, might legally have continued till the demise of the Crown, its only natural and necessary termination.

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\* This blank is left for 'the Lords,' in case of the concurrence of that House.



The preamble\* is deserving of serious consideration. ‘Whereas, by the antient laws and statutes of this kingdom, frequent Parliaments ought to be held; and whereas frequent and new Parliaments tend very much to the happy union and good agreement of the King and People.’ The act then proceeds, in the first section, to provide for the frequent holding of Parliaments, according to the former laws; and in the second and third sections, by enactments which were before unknown to our laws, to direct, that there shall be *a new Parliament every three years*, and that no Parliament shall have continuance longer than *three years at the farthest*. Here, as at the time of the Declaration of Rights, the holding of Parliaments is carefully distinguished from their election: the two parts of the preamble refer separately to each of these objects. The frequent holding of Parliaments is declared to be conformable to the antient laws; but the frequent election of Parliament is considered only as a measure highly expedient on account of its tendency to preserve harmony between the Government and the People.

The principle of the Triennial Act, therefore, seems to be of as high constitutional authority as if it had been inserted in the Bill of Rights itself, from which it was separated only that it might be afterwards carried into effect in a more convenient manner. The particular term of three years is an arrangement of expediency, to which it would be folly to ascribe any great importance. This act continued in force only for twenty years. Its opponents have often expatiated on the corruption and disorder in elections, and the instability in the national councils, which prevailed during that period. But the country was then so much disturbed by the weakness of a new government, and the agitation of a disputed succession, that it is impossible to ascertain whether more frequent elections had any share in augmenting the disorder. At the accession of George I. the duration of Parliament was extended to seven years, by the famous statute called the Septennial Act†, of which the preamble asserts, that the last provision of the Triennial Act ‘if it should continue, may probably at this juncture, ‘when a restless and Popish faction are designing and endeavouring to ‘renew the rebellion within this kingdom, and an invasion from abroad, ‘be destructive to the peace and security of the government.’ This allegation is now ascertained to have been perfectly true. There is the most complete historical evidence that all the Tories of the kingdom were then engaged in a conspiracy to effect a counter revolution; to wrest from the people all the securities which they had obtained for liberty; to brand them as rebels, and to stigmatize their rulers as usurpers; and to re-establish the principles of slavery, by the restoration of a family, whose claim to power was founded on their pretended authority. It is beyond all doubt, that a general election at that period would have endangered all these objects. In these circumstances the Septennial Act was passed, because it was necessary to secure Liberty. But it was undoubtedly one of the highest exertions of the legislative authority. It was a deviation from the course of the Constitution, too extensive in its effects, and too dangerous in its example, to be warranted by motives of political expediency. It could be justified only by the necessity of preserving liberty. The Revolution itself was a

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\* 6 W. & M. c. 2.

† 1 Geo. I. st. 2. c. 38

breach of the laws; and it was as great a deviation from the principles of the Monarchy, as the Septennial Act could be from the Constitution of the House of Commons:—and the latter can only be justified by the same ground of necessity, with that glorious Revolution of which it probably contributed to preserve — (would to God we could say to perpetuate) the inestimable blessings.

It has been said by some, that as the danger was temporary, the law ought to have been passed only for a time, and that it should have been delayed till the approach of a general election should ascertain, whether a change in the temper of the people had not rendered it unnecessary. But it was necessary, at the *instant*, to confound the hopes of conspirators, who were then supported and animated by the prospect of a general election; and if any period had been fixed for its duration, it might have weakened its effect, as a declaration of the determined resolution of Parliament to stand or fall with the Revolution.

It is now certain, that the conspiracy of the Tories against the House of Hanover continued till the last years of the reign of George II. The Whigs, who had preserved the fruits of the Revolution, and upheld the tottering Throne of the Hanoverian Family during half a century, were, in this state of things, unwilling to repeal a law, for which the reasons had not entirely ceased. The hostility of the Tories to the Protestant succession was not extinguished till the appearance of their leaders at the Court of King George the Third, proclaimed to the world their hope, that Jacobite principles might reascend the Throne of England with a Monarch of the House of Brunswick.

The effects of the Septennial Act on the Constitution were materially altered in the late reign, by an innovation in the exercise of the prerogative of dissolution. This important prerogative is the buckler of the Monarchy,—it is intended for great emergencies, when its exercise may be the only means of averting immediate danger from the Throne,—it is strictly a defensive right. As no necessity arose, under the two first Georges, for its defensive exercise, it lay, during that period, in a state of almost total inactivity. It was exercised without any political object, and, as it seems, merely for the purpose of selecting the most convenient seasons for election. Only one Parliament, under these two Princes, was dissolved till its seventh year. The same inoffensive maxims were pursued during the early part of the reign of George the Third. For the first time, in the year 1784, the power of dissolution, hitherto reserved for the defence of the Monarchy, was employed to support the power of an Administration. The majority of the House of Commons had, in 1782, driven one Administration from office, and compelled another to retire. The right of the House of Commons to interpose, with decisive weight, in the choice of Ministers, as well as the adoption of measures, seemed by these vigorous exertions to be finally established. George the Second had, indeed, often been compelled to receive Ministers whom he hated; but his successor, more tenacious of his prerogative, and more inflexible in his resentment, did not so easily brook the subjection to which he thought himself about to be reduced. In 1784, he again saw his ministers threatened with expulsion by a majority of the House of Commons. He found a Prime Minister who, trusting to his popularity, ventured to make common cause with the King, and to brave that Parliamentary disapprobation to which the prudence or principle of both his predecessors had induced them to yield. Mr. Pitt persisted in holding office, in defiance of the



opinions of a majority of the House of Commons. He thus established a precedent, which, if followed, would have deprived that body of the advantages it had gained in the two preceding reigns. Not content with this great victory, he proceeded, by a dissolution of Parliament, to inflict such an exemplary punishment on the same majority, as might deter all future majorities from following their dangerous example.

The Ministers of 1806 gave some countenance to Mr. Pitt's precedent, by a very reprehensible dissolution: but in 1807, its full consequences were unfolded. The House of Commons was then openly threatened with dissolution, if a majority should vote against Ministers; and in pursuance of this threat, the Parliament was actually dissolved. From that moment, the new prerogative of penal dissolution was added to all the other means of Ministerial influence: every man who now votes against Ministers, endangers his seat by his vote. Ministers have acquired a power, in many cases more important than that of bestowing honours or rewards. It now rests with them to determine, whether Members shall sit securely for four or five years longer, or be instantly sent to their constituents, at the moment when the most violent, and perhaps the most unjust, prejudice has been excited against them. The security of seats in Parliament is made to depend on the subserviency of majorities.

Of all the silent revolutions which have materially changed the English Government, without any alteration in the letter of the law, there is, perhaps, none more fatal to the Constitution than this power of penal dissolution, thus introduced by Mr. Pitt, and strengthened by his followers: and it is the more dangerous, because it is hardly capable of being counteracted by direct laws. The prerogative of dissolution, being a mean of defence on sudden emergencies, is scarcely to be limited by law. There is, however, an indirect, but effectual, mode of meeting its abuse. By shortening the duration of Parliaments, the punishment of dissolution will be divested of its terrors. While its defensive power will be unimpaired, its efficacy, as a means of influence, will be nearly destroyed. The attempt to reduce Parliament to a greater degree of dependence will thus be defeated; due reparation be made to the Constitution; and future Ministers taught, by a useful example of just retaliation, that the Crown is not likely to be finally the gainer in struggles to convert a necessary prerogative into a means of unconstitutional influence.

We endeavoured, on a former occasion\*, to prove by arguments, of which we have yet seen no refutation, that Universal Suffrage would be an institution hostile to liberty; that lawgivers chosen by all might naturally disregard important interests of society, or oppress great classes of men: while a representative assembly, elected by considerable bodies of *all classes*, must generally prove a faithful and equal guardian of the rights and interests of *all men*. We have now endeavoured to show, that the English representation was actually founded on these first principles of political theory;—that the tendency of that representation has always been, to make as near approaches towards reducing them to practice, as the irregularity and coarseness of human affairs would allow;—and that the unrepresented state of great communities in the present age has sprung from the disuse, and

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\* Edinburgh Review, Vol. xxviii. p. 165.

may be remedied by the revival of our antient constitutional principles. Having, in the *first* place, resisted plans of change, which could neither be attempted without civil war, nor accomplished without paving the way for tyranny, we have now presumed to propose a scheme of reformation, which would immediately infuse a new popular spirit into the House of Commons, and provide means for gradually correcting every real inadequacy of representation in future times ; which would be carried on, solely by the principles and within the pale of the Constitution ; where the repair would be in the style of the building, and contribute to strengthen, without disfiguring, an edifice still solid and commodious, as well as magnificent and venerable.

Moderate Reformers have been asked, by the most formidable of their opponents, at what period of history was the House of Commons in the state to which you wish to restore it ?\* An answer may now be given to that triumphant question. Had the object of the moderate reformer been total change, he might be called upon to point out some former state of the representation which he would in all respects prefer to the present. But it is a part of his principle, that the institutions of one age can never be entirely suitable to the condition of another. It was well said by an English politician of keen and brilliant wit, that ‘ neither king nor people would now like just the original ‘ Constitution, without any varyings.’ † It is sufficient for the ‘ Whig, or ‘ Moderate Reformer’ (for Mr. Canning has joined them, and we do not wish to put them asunder) to point out a period when the Constitution was in one respect better, inasmuch as it possessed the means of regulating and equalizing the representation. Its return to the former state, in that particular only, would be sufficient for the attainment of all his objects.

If no conciliatory measures on this subject be adopted, there is great reason to apprehend that the country will be reduced to the necessity of chusing between different forms of Despotism. For it is certain, that the habit of maintaining the forms of the Constitution by a long system of coercion and terror must convert it into an absolute monarchy. It is equally evident, from history and experience, that revolutions effected by violence, and attended by a total change in the fundamental laws of a commonwealth, have a natural tendency to throw a power into the hands of their leaders, which, however disguised, must in truth be unlimited and dictatorial. The restraints of law and usage necessarily cease. The factious among the partisans of the revolution and the animosity of those whom it has degraded or despoiled, can seldom be curbed by a gentler hand than that of absolute power ; and there is no situation of human affairs, in which there are stronger temptations to those arbitrary measures of which the habit alike unfits rulers and nations from performing their parts in the system of liberty.

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\* Mr. Canning’s Speech at Liverpool, p. 45.

† Political Thoughts, &c. by the Marquis of Halifax, p. 69.



## PARLIAMENTARY REPRESENTATION OF SCOTLAND.\*

THERE is scarcely a prospect in the world more curious than that of England during a general election. The congregations of people — the interests called into operation — the passions roused — the principles appealed to — the printed and spoken addresses — the eminent men who appear — the pledges required or proffered — the Parliamentary speculations — the symbols — the vicissitudes of the poll — the triumphant chairing — these, with all the other circumstances, exhibit the most peculiar and stirring scene that any country has to show. It is a scene in which there is much to attract the eye and the ear, but more to fix the mind. A person who understands the bustle before him, and thinks what it implies, sees in it the whole practical working of the constitution. He sees the majesty of public opinion; the responsibility of representatives to constituents; the formation of the political virtues; the union of all classes and sorts of men in common national objects; the elevation of the popular character; the prodigious consolidation given to the whole civil fabric, by the incorporation of all parts of the state with the mass of the population; the combination of universal excitement with perfect general safety; the control of the people softened and directed by eloquence and wisdom; the establishment of the broadest basis on which the happiness of a state can rest.

It is impossible to behold this animating and ennobling spectacle without turning with sorrow and humiliation to Scotland. This part of the empire originally formed a kingdom by itself; and it still retains its own laws, religion, interests, feelings, and language. It contains greatly above two millions of inhabitants, who are still rapidly increasing. It is full of generally diffused wealth. Education has, for ages, been habitual throughout the very lowest ranks. The people are extremely peaceable; and their character for steadiness and prudence is so remarkable, that these virtues have been imputed to them as vices. Yet this is the only portion of the United Kingdom which is altogether excluded from all participation in the representative system. It is not enough to say that their representation is defective. The only correct statement of the fact is, that *the people have no share whatever in the representation*. It is needless to waste time in explaining how this arose; for it would only lead us away from the consideration of the fact into historical disputes; and an exact knowledge of the origin of the evil does not facilitate its cure. The substance of the matter seems to be, that when the representation of Scotland was adjusted at the Union, there was no party, and no man, who paid any attention to the prin-

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\* 1. Memoir concerning the Origin and Progress of the Reform proposed in the Internal Government of the Royal Burghs of Scotland. By Archibald Fletcher, Esq., Advocate. 2. Considerations submitted to the Householders of Edinburgh, on the State of their Representation in Parliament. 3. An Explanation of the present State of the Case respecting the Representation of Edinburgh in Parliament. 4. Letter to the Freeholders of the County of Dumbarton, on Parliamentary Reform. By Alexander Dunlop, Esq., Advocate.—Vol. lii. p. 208. October, 1830.



ciples on which popular representation must be founded. The people had not attained any public importance; and, amidst the miserable scramble for paltry and temporary objects by which all the proceedings connected with that measure were marked, their remote interests were completely disregarded, or rather, it never occurred to any body that they had any. But, however this may be, the result is certain, that there never has been, and, while the existing system endures, there never can be, any thing resembling real representation in Scotland.

In order to justify this statement, it is only necessary to explain the circumstances.

The only places which elect members are the counties and certain towns. Neither the universities, nor any other bodies or professions, possess the elective franchise. The counties return thirty members, the towns fifteen.

I. To entitle a person to vote *in a county*, he must either be the actual proprietor of a portion of land, or he must be the feudal superior of it; — the land itself, in this last case, being in the hands of a vassal. To afford a qualification, the property must be very considerable. The whole country was valued many centuries ago; and a freehold qualification can only arise from land of which it can be proved that it was then examined and found to be worth forty shillings Scots a year, or which is now valued by the Commissioners of Supply as yearly worth 400*l.* Scots. It is not easy to say what these antient valuations denote in modern times; but the subject was very much discussed about forty years ago; and persons, who were then deemed competent judges, estimated 400*l.* Scots of valued rent as equivalent to a present yearly rent of from one to two hundred pounds sterling. If this was correct then, the subsequent improvement of the country, which has increased the modern worth of property, while the old valuations remain, must have greatly increased the difference; so that, speaking with reference to existing circumstances, *the qualification in Scotland is probably at least thirty or forty times higher than in any other part of the empire; and above a hundred times beyond the general qualification in England.* Besides this, there are two things very material to be kept in view. In the *first* place, the qualification attaches *merely to land*, including under this word, fisheries, mines, and such other things as are inseparable from land; it is not conferred upon property in houses. In the *second* place, not even land qualifies, whatever may be its extent, *unless it is holden of the crown.* So that a person may have an estate of 20,000*l.* a year, which affords him no vote, because he holds it of a subject. The qualification, therefore, is first high, and then it must be high within a limited description of property.

The result of this is, that the whole freeholders of Scotland are fewer in number (we believe) than those in any English county, unless perhaps the very smallest. There are certainly not three counties in England in which the freeholders do not in each exceed those of all Scotland. We cannot state their amount with perfect accuracy; but, according to the list usually referred to, and which, we are confident, is not very far wrong, the total number, a few months ago, was somewhere about *three thousand two hundred and fifty-three.* These chosen few are thus distributed:—



1. Aberdeen - 182	9. Dunbarton - 72	20. Linlithgow - 69
2. Argyle - 119	10. Dumfries - 84	21. Orkney - 41
3. Ayr - - 202	11. Edinburgh - 166	22. Peebles - - 48
4. Banff - - 49	12. Elgin - - 31	23. Perth - - 237
5. Berwick - 151	13. Fife - - 236	24. Renfrew - 142
{ 6. Bute - - 21	14. Forfar - - 122	25. Ross - - 82
{ * Caithness - 50	15. Haddington 109	26. Roxburgh - 151
{ 7. Clackmannan 16	16. Inverness - 84	27. Selkirk - - 53
{ * Kinross - 21	17. Kincardine - 77	28. Sutherland - 21
{ 8. Cromarty - 19	18. Kirkcudbright 161	29. Stirling - - 128
{ * Nairne - - 17	19. Lanark - - 222	30. Wigton - - 70

(\* Each of these three pairs only returns a member alternately.)

But calling the total number about 3,253 is rather a flattering view of the political state of Scotland. Two deductions must be made: 1. There are a great many cases in which the freehold belongs to a proprietor, but is entitled to be used during life by another. The names of both of these persons are on the rolls, but only one of them can vote. 2. Many people have votes in a plurality of places. If these double reckonings be discounted it is very doubtful if the total number of persons would be above 2,500. Some think that they would not exceed 2,000.

A franchise so little attenuated by diffusion, is worth having. The tenth or two-hundredth part of a member of parliament is a dear article in the political market. The holder of it is an important man to government. Some people therefore buy votes as an investment. There is never a contest at which such purchasers do not appear; and they are generally the last to declare how they are to go. It is observed, moreover, that those who take such charge of the representation seldom have their families long on their hands. These qualifications, even after being stript of every thing except the mere right of voting, are probably never worth less than 200*l.* or 300*l.*,—the average price is probably about 500*l.*; they frequently sell for double this sum; and, on one recent occasion, six of them, exposed to public sale in one day, brought above 6000*l.* What is so valuable cannot be easily parted with; and, therefore, devices have been fallen upon for giving out qualifications for occasional use, without permanently losing them. The most common of these schemes is, for a person whose estate affords many votes to dispose of them to his friends *only during their lives*; which, by certain legal forms, he can easily do, without at all impairing his estate. These donees, or purchasers, appear technically as the absolute life owners; but they are generally under feelings, nearly as strong as written obligations, to support the person who has trusted them. And then, lest these qualifications should be lost to the family, it is lawful to *entail* them along with the family estate. So that a great landed proprietor may first be surrounded by his own satellites while his attraction lasts; after which, the lesser stars return and are lost in their parent luminary; who again sends them periodically forth to perform the same evolutions. Although the present number of voters be only about 3253, yet, if all the latent voters were to be brought into action, they could be very greatly increased. But still the increase would take place on the same principle of each landed proprietor merely multiplying his friends, without holding out any prospect of relief to the public.

II. In the *towns*, the system is different, but not better. There are sixty-six places, which, in consequence of their municipal constitution, and their holding of the crown, are termed royal burghs. Of these, Edinburgh is the only one which returns a member for itself. All the rest are divided into clusters either of four or five; and these four or five return one member among them. Many of these places are so insignificant, that their share in the representation is the only thing which reminds the public that they exist, and (somehow or other) constitutes their only wealth. And, on the other hand, there are many very large places, such as Leith and Greenock, with about 25,000 or 30,000 inhabitants each, and Paisley with 50,000, which do not contribute to return any fragment of a member; because, although great towns, they are not royal burghs. The mode of electing in these burghs is this: The town-council of each elects a delegate, and these four or five delegates from each cluster meet, and choose the member. Each delegate is appointed on the faith that he will vote agreeably to the wishes of those who trust him; but he is not legally bound to do so; and these delegates sometimes find it convenient to take their own way. When a fit of this kind comes upon them, the member is elected by these four or five individuals; — when they are faithful, he is chosen by a majority of those persons' constituents.

Now, in the appointment of these constituents, the people have no voice whatever. Nothing can be more close than the most liberally-constituted Scotch town-council; of which the universal, the hideous, the ludicrous, and the peculiar feature is, that each set of magistrates elects its own successors, to the utter exclusion of the rest of the public, and to the eternal perpetuation of their own feelings. Nothing can be fairer than to take Edinburgh as an example of the whole; because it is amongst the best, and has an entire member for itself. Now, in Edinburgh, the town-council consists of only thirty-three individuals, which is considerably above the usual number. The sum total of the property of these persons within the town was rated, when it was last examined, at about 2800*l.* a year. These thirty-three individuals, or rather a majority of them, have the absolute power of electing the member who is to represent a population far exceeding 100,000, and possessing property rated at above 400,000*l.* a year; or, in other words, the right of voting is engrossed by less than the three-thousandth part of the population, and by about the one hundred and fiftieth part of the real property. This population contains above 1200 merchant burgesses; above 2000 persons connected with the profession of the law; at least 150, including professors in the university, engaged in the higher branches of education; a clergy of about sixty or seventy persons; and at least a hundred of the medical and other learned professions; — *not one of whom has a single word to say in the election either of the member or of the town-council.* It is town-councils so constituted that elect all the delegates.

It is important to observe, that this system, both with respect to the counties and the burghs, *is the only one that exists.* The chief ground on which the defects in the English representation have been defended, is, that the closeness of one place is compensated by the openness of another, — there being still popularity enough upon the whole. Neither Burke nor Blackstone, nor any one who has excused these defects, ever carry their apology beyond this. But *in Scotland there is no popularity at all* in any one place. It is all close burgh or close county,



It is therefore unnecessary to explain that the people of Scotland scarcely feel any interest in the election of what are called their representatives. They are not taken into calculation by the parties engaged; and, having no right to interfere, the expression even of their opinion is generally considered obtrusive and dangerous. While every other part of the empire is teeming with life, they are dead. The candidates and their friends take the only concern in the proceedings; and the ceremony of an election, and the substance of a dinner, are gone through with due animation by them. But the people are left entirely out of view; and, conscious of degradation, withdraw from a scene where they can only exhibit themselves in humiliating contrast with others certainly not better educated, and not necessarily wealthier, than themselves. The hustings, which could not be put down without putting down England, are things that Scotland never saw. The county freeholders always meet under cover; sometimes in a church, but generally in a room; and the four or five town electors burrow in holes still more obscure. The whole fifteen members of all the sixty-six burghs are always chosen on the same day; yet, in so far as the public is concerned, no day passes more entirely like another. If it were not from seeing the circumstance mentioned casually in the newspapers next day, the very fact that a member had been elected would often not be known to those living in the same street. The burgh delegates merely take the oaths, vote, and depart. The county freeholders are much more operose. They sometimes wear out both the day and the night before their incubation be over. But, instead of discussing public measures or men, they are engaged in wrangling about feudal niceties, and trying to pick or vote holes in deeds. The scene resembles a meeting of attorneys, endeavouring to overreach each other in a set of conveyances.

These are the facts. — Their consequences are inseparable from the system, and are marked by the deepest lines. Few intelligent persons will require to be told what these consequences must be. They will see them all flowing obviously and necessarily from the single fact of the paucity of the electors. There are others, however, who may wish to hear them more particularly traced. For the satisfaction of these persons, let us look at the system as it affects the *electors*, the *representatives*, and the *people*. Not as it affects, or has heretofore affected, the conduct of any individuals, — for we refer to nothing personal, — but as, in principle, it must have a tendency to affect all men of every description on whom it operates.

I. No body of *electors* can possibly accomplish the objects of its institution, if it be either so small that it bears no proportion to the rest of the people, or is so peculiarly constituted that it can have little sympathy with them. If mere honesty and intelligence (the qualities supposed to distinguish select constituents) were sufficient, all that would be wanted would be to find a few honest and sensible men, or even one. But what security is afforded for the continuance of these qualities, or for the people's belief in them? There is no such security *without numbers and publicity*; — the first of which excludes the possibility of universal corruption; while the second exposes every one to the direct operation of that public opinion which seems to be the only effectual guardian either of reason or of honour. The very circumstance of electors being cut off from the rest of the public, and set aside to exercise a high and invidious privilege, is of itself



fatal to them. Half their virtues are inspired by community. Those who make no common cause with the people must be ignorant or regardless of their interests; and with whatever purity or zeal they may strive to do their duty, they can never, in dignified solitude, acquire the right elective feelings.

A Scotch elector finds himself the possessor of a privilege which he owes solely to his being a landholder or a member of a town-council. This narrows him to a sympathy with one or other of these particular classes. The value of his privilege is diminished by dissemination; and therefore his interest is to keep it exclusive. The possessors are so few, and their interest so peculiar, that each of them is strongly and irresistibly influenced by the corporation spirit. He sees himself surrounded by the people, who, he is aware, cannot like a sect which is only favoured on the principle that all others are unworthy of trust. The jealousy of which he is the object recurs upon himself. He considers the people as, in this matter, his natural opponents, and regards even their approbation, not as an object of ambition, but as an encroachment on his right. In the exercise of this right, he may possibly act with perfect purity. But great is his merit if he does so. For he has no publicity to check him; and he knows best how many there are within the circle of his brethren who can venture to throw the first stone. He has paid, or could get, a large price for his freehold, or its use; — and it is not unnatural that the master of an article, for which there is a keen demand, should look out for the highest purchaser. Or he has got it gratuitously from the pledging kindness of a friend, and he can scarcely employ it otherwise than as that friend may wish. It is needless to inquire how these votes, so steeped in temptation, have been generally bestowed; because the true objection to them is, not that in time past they have been abused, but that no safe electors can ever be formed out of such materials. Although the conduct of the Scotch ones had been the very reverse of what it has been, or were hereafter to be any thing that may be supposed, the inherent objection to them would be precisely the same. They cannot have a public heart.

Nothing, accordingly, can be more certain, than that their opinions are not only no index of the opinions of the public, but that these are generally in conspicuous contrast. What is of less weight in Scotland than the resolutions of a town-council, or of a meeting of freeholders? What would be of more weight, if these bodies were constituted as they ought to be? But they are so constructed, that, even at general elections, they are sensible of the operation of only two interests — that of government, and that of some individual of great local influence. The third interest, which belongs to the popular party, and is so familiar and so useful elsewhere, exists, and sometimes predominates, in the country; but though it may be brought in as an auxiliary, it has no recognized or prevailing operation among almost any body of our electors. What is recognized among them, is government and the adjoining large proprietor. Among voters, who are so few, and each with his feelers out, the power of government is acknowledged in all places, at all times, and, when not counteracted by the local family, is absolute. This family is sometimes in opposition, or, without being in open opposition, patronises liberal opinions. Whenever this happens, it is sure to be joined by the really independent party; and, *in so far as elections are concerned*, this wretched ground is all that party has to



stand upon. The provincial great man sometimes domineers so much, that his own troops mutiny, and defeat him by deserting to the king. But, in whatever way these two may play with, or be played against, each other, they form the only practically effective interests. It is a conclusive fact against the Scottish system, that no man can, by almost any possibility, enter the walls of Parliament for a Scotch place, except on one or other of these two interests. *We do not believe that any one member was ever returned by any body of Scotch electors, solely in consequence of his public character or services.* On the contrary, it is a result with which we are quite familiar, that (unless under a combination of circumstances, so rare that it cannot be reasoned from,) whenever the most meritorious public servant ceases to be backed by government, or by the commanding influence of the local family, that instant he is on the wane as a Scotch member. There have been occasional exceptions; but they are very rare, and nearly miraculous; and not one of them has been owing purely to the force of public opinion penetrating the electors. Hence it is, that Scotchmen, rejected by the electors of Scotland, are often received with acclamation by the electors of England, and that our most distinguished public men, instead of appearing in their natural position, as representatives of their native country, are obliged to give the honour of choosing them to strangers. No man, who has nothing but his public services or character to recommend him, need ever dream of a Scotch seat. On what ground should he? Would public services give any man a seat in England, if there were only about a few dozens of voters allotted to each county or town; all of whom made their arrangements with candidates privately before the election, and were only brought into a room to be counted? Under such a system, instead of the moving of great national interests, the tactics of Parliamentary parties, and all that gives dignity to a real election,—there would be low manœuvring,—degrading conditions,—criminal understandings,—paltry truckling,—personal perfidy. How far these do actually blacken the subterranean mysteries of a Scotch election, we have no inclination to know or to state. We have always observed, however, that those who have been best acquainted with the scene, have generally come out of it with the greatest disgust; especially if they entered into it gentlemen, and for pure objects. Nothing can be more erroneous, however, than the conclusion, that this is shameful to our electors. It is only shameful to the system which exposes them to the corruptions, while it removes them from the checks, of elections. The better-founded wonder is, that there should be so many honourable examples of fidelity to friendship and to principles as there are. Place the firmest patriots on earth in the same situation, and they would very speedily get into the habit of acting in the very same way.

II. In England and in Ireland, Parliament is the great theatre for ability and public spirit. Men of talent and ambition betake themselves to that sphere, on the same principles and hopes which attract to any other line of fame or usefulness. If they be qualified to distinguish themselves, they are certain that the great variety of interests and of seats with which the countries abound will afford them ample opportunities, whatever may be their opinions or views. They may be resisted by government and by all powerful individuals, and not strongly supported even by any of the leading parties; still there are innumerable places where they can always appeal to the people, by whom



public character is rarely misunderstood, and public services rarely forgotten. They, therefore, train themselves to that line, or are easily led into it; and, whether they succeed in their canvass, or fail, they are at least certain of a fair and manly competition. The effects of this are not confined to the actual competitors. The openness of the field stirs and directs all the ambition of the country, and has exactly the same influence with that which is produced throughout the population by the rewards of other species of exertion being made accessible to all.

The power of being a representative for Scotland is confined to a very narrow class; so narrow, that it is no measure whatever of the public mind or state. And, even within this class, he who is thinking of Parliament, knows that there are only two pivots on which he can enter it. Instead of preparing himself, therefore, by powers, or connections, or principles, worthy of ambition, his views are limited to those means by which—in the local or ministerial leading-string—he may gain the unsatisfactory favour of a handful of voters. Thus, the greater part of the talent of the country is turned away from Parliament. Usefulness or glory in the House of Commons forms no object with the youth of Scotland, and indeed is rarely ever thought of. And that portion of the talent of the country which is admitted into Parliament is trammelled by its supporters. Having no connection with the people, the member does not partake of their character. He goes to Parliament without constituents, and is treated according to the insignificance of his origin. Speaking the sentiments of no portion of the community,—depending for his seat on a nod,—and not prepared, by habit or education, to attain, while he is allowed to sit, that distinction which of itself will do him little good on his next canvass,—he is driven by his very helplessness to earn that protection from government, which can alone save him. If he fail in this, he is gone. If he obtain it, any sacrifice he may have made is immaterial, for he has no electors to fear. There is only one course by which he can be comfortable: avowing his sense of his situation, and doing all he can to reform it.

We know no other explanation than this of the established position which the members for Scotland seem to occupy. That at all times they have in general been respectable and worthy, and many of them able, men, may be admitted; and the people of Scotland would be most ungrateful if they were insensible of what they owe to some of them in recent times. Nevertheless, if a stranger, surveying the House of Commons, were to ask whether the English, the Irish, or the Scotch members stood highest in the opinion of that fairest of all assemblies, who believes that the answer would be honourable to the northern part of the kingdom? And if that stranger were to come into Scotland, and to ask what sphere of public life shone with the largest portion of the national talent—who would say it was Parliament? In all the other avocations of genius, industry, or knowledge, the country is full of competitors, many of them splendidly successful;—there is not one other department in public life, at the head of which the natives of Scotland are not to be found;—and they have increased the general stock of public intellect in a proportion far exceeding their numbers. Yet, where is the great member Scotland has ever sent to Parliament? Deduct those whose personal influence cannot be separated from their official, and the poverty of our contribution to the harvest of Parlia-



mentary patriots is most lamentable. And it is the more humiliating, that many of the brightest names by which Parliament has been adorned, have been those of men born, educated, and chiefly interested in Scotland. But such persons cannot occupy a Scotch seat. Take an example. Francis Horner was a Scotchman, born and bred, — without fortune, without family, and a Whig. He was admirably qualified to make a deep impression on Parliament; and accordingly, his grave was covered with the tears and admiration, not only of his friends, but of his political adversaries. Through what avenue could this man have ever had a chance of reaching the House of Commons if he had depended solely on his character and the electors of Scotland? The system which excludes such persons cannot be favourable to the production of the higher order of representatives. The reputation of the Scotch members, therefore, is the result of their constitutional position. It has sometimes been said, that even although there were popular elections in this country, nearly the same individuals would be returned. Even though it were so, these individuals would be different members. The simple circumstance of their depending on a larger portion of the intelligence of their country, would change their natures. A reformed system of election would breathe a better spirit into the representatives; and it is the only thing that will ever enable the country to redeem itself from the hereditary shame — of producing every thing that is great, except statesmen.

III. But the chief thing is the character of the people. By the word people, we mean that great central mass of property and knowledge which everywhere else is admitted to form the only good body of electors. We need say nothing of the injustice of putting this class beyond the pale of the constitution; or of the utter hopelessness of expecting to find any safe substitute for them in the discharge of the elective duties. All this is rudimental. But too little importance is attached in Scotland to the value of political privileges, and particularly of this one, in improving the character of the people. It has been said, and adopted by no less a person than Paley, that provided right members be returned, it is immaterial who chooses them. There cannot be a greater error. Absolute monarchy might be justified on the same principle. The certainty that the monarch would always be right, would be no compensation for the loss among the people of the qualities which the management of their own affairs implies. It has been said in the same way, that if causes could be well decided without them, juries might as well be dispensed with; as if no part of the value of this institution arose from its rearing in the community the habits connected with the administration of justice. The misfortune of the people of Scotland does not consist merely in the humiliation and danger of their not being permitted to exercise an individual function, but in the circumstance that this interdiction plucks the good qualities connected with the exercise of that function from their breasts. What these qualities are, a Scotchman may well be excused for asking. They are watchfulness, courage, fairness; — an interest in public affairs and men; — a love of justice; — and the elevation which is imparted by the consciousness of being trusted, and of having rights, in the administration of the national business. The inhabitants of Scotland are treated by the law as unfit for the exercise, and therefore undeserving of the cultivation of these excellences; then they are said to be weak in the political virtues. The imputation, generally applied, is most just;



though there be exceptions, of which the honourableness is increased by their difficulty. The thing to be explained is, how there should be an independent party in the country. But the cause of whatever justice the charge contains ought never to be overlooked. Where would the public spirit of England be, if it were placed in the same situation? The great blessing of a free government consists in its generating the virtues of freedom, which, in their turn, become the only preservatives of that which creates them. But the people of Scotland are expected to have the manliness of liberty without its practice, and a taste for constitutional rights, which they only know by having them described as what they must not touch. The law has as yet assigned them no place or privilege which connects them directly with the political part of the state. They form no political element,—have no legitimate power,—no established vent for their opinions,—and are placed in unnatural opposition to the classes with which it would be most useful for them all that they were blended. There is no ‘common general thought’ to make them one.

Yet this state of things, in comparison of which our sending no members to Parliament at all would be far better, has been defended. There is only one view on which it can be defended honestly; which is, that the less the people have to do with public affairs the better, and that wherever a blot in the representation has become venerable, it ought to be prized and perpetuated. It is needless to make any answer to a sentiment, which is not applicable peculiarly to Scotland, and which, if felt, cannot be rationally uttered. But it is proper to notice the ordinary apologies that are made for the prevailing system of this country.

1. We are met, as we have invariably been on occasion of every improvement that has taken place within the last hundred years, by the *Articles of Union*. If these unhappy articles had served all the purposes for which they have been employed, the institutions of Scotland would have stood exactly as they did in the year 1707. In the debate on the representation of Edinburgh, on the 13th of April 1826, Mr. Canning, who took the lead in opposing the bill which Mr. Abercromby was attempting to introduce for its reform, disdained to take advantage of such an argument; and, after stating that the Scotch representation was *in itself indefensible*, added, that if it were expedient now to redress it, the Articles of Union ought to be ‘*scouted*.’ And so they ought. They are never referred to except for the sake of mischief, and when reason fails.

2. It is said, that in spite of all theoretical defects, the thing *works well*. This is not true. It works abominably.

3. Our representation, we are told, is not to be viewed by itself, but must be taken along with the general representation of the country; which, upon the whole, is fair enough; and the Scotch, though not protected by their own members, are by others. The meaning of all this is, that they are represented *virtually*. So were the Americans before their war of emancipation, and their unreasonableness in requiring more was demonstrated on all the principles on which the doctrine of this sort of representation rests. There is one evil that it never can remove, which is decisive. No virtual representation can ever elevate the character of the people. It tends directly to depress it, by showing that there must be representation, but that they cannot be trusted with it. But there is another consideration equally conclusive in reference



to the peculiar case of Scotland. One place may possibly be represented by another *within the same country*, because the interests and feelings of all the people in that country may be held to be somewhat alike. But it is absurd to apply this principle to the inhabitants of two totally separate countries. Would it be any thing to an Irish Catholic to tell him that he was virtually represented by an English Episcopalian? Or is it any thing but a mockery to console an Orkney hose-knitter, by assuring him that his concerns are duly attended to by a distant creature called a Pot-walloper?

4. We are reminded of those scenes of *violence and vulgarity* by which, it is said, the peace of England is disturbed, and its popular elections degraded. Considering the multitudes of people who are keenly engaged, the general peaceableness of these contests is one of the most extraordinary circumstances that distinguish them. Still all violence is bad. But it in no degree forms a necessary part of a popular election. The simple remedy of taking the votes at several places at once would check it all; and many other remedies, of which nothing but the fatal horror of innovation prevents the adoption, have been suggested. At any rate, in Scotland, it is but a choice of evils; and it is difficult not to marvel at those who have no objections to pollute themselves by the secret contamination of an underhand election, yet affect to be squeamish about the vulgarity of exhibiting themselves before their countrymen in the face of day. The canvasser of a Scottish burgh is too delicate for those scenes which have been graced by all that is splendid or worthy in England;—which were not disdained by the stately dignity of Pitt, the classic taste of Fox, or the fastidious purity of Romilly.

5. Any admission of the people is an invasion of the *vested rights* of existing electors. This objection has the great merit of always getting stronger the more that the abuse gets grosser. It would never be so strong as in the case of a county, or a set of burghs, or even the whole country, being entirely in the hands of one man. But the truth is, that this is not a subject to which the principle of protecting vested rights applies. Whatever use the members of town-councils may make of their franchise, they hold it, not only in substance, but in form, solely as a trust for the inhabitants of the burgh; and if it be convenient for the inhabitants to recall or limit their trust, it is preposterous to hear the parties object that they are entitled to keep it for their own purposes. The county freeholders hold the franchise, no doubt, as a part of their property; and they may make money by selling it if they please, as some people make money by selling their consciences. But the franchise, when restricted purely to the right of voting for a member, can be held to be worth nothing except what is legally implied in that act. A distressed candidate is willing to give a freeholder 1000*l.* for a qualification which yields nothing but the power of voting. In one sense, this qualification is worth 1000*l.*, because it fetches this sum; and a seat in Parliament may be said to be worth 10,000*l.*, on the same principle. But the price is not truly paid for the subject which appears to be sold. It is paid for certain indirect results, which it is criminal to buy or to sell. Even though it were proposed, therefore, to take away from the existing freeholders any thing in this matter that they legally have and legally use, they would have nothing to say on the ground of vested interest. But nothing of the kind is necessary. They can certainly never pretend



that the franchise, though continued with them, should never be extended to others, because this may diminish the value of their qualification. The members of every corporation might, on the same ground, object to the admission of every new member. Nothing can be so clearly held under the condition that it is subject to legislative arrangement, as the elective franchise. Yet the essence of this objection is,—the price of a set of franchises has been raised to an enormous height by an abuse, and is never to be lowered.

6. *The people are satisfied.* This, if it were true, would be the only satisfactory objection. Because, certainly, if the people be pleased with what they have, it is needless to give them more. But it is not true. Nobody can be acquainted with Scotland without knowing that the state of the representation is felt as the most shameful and mischievous of all grievances. It has been objected to ever since the time arrived at which the people could think of such a subject, and as loudly as they have been allowed to express any political opinion. It formed a subject of public, and almost of parliamentary discussion, in the year 1775; the discussion was renewed in 1787, and again in 1790; and there has not been a free public meeting or publication for the last twenty years, where the necessity of Reform has not been one of the prominent sentiments. The example of Edinburgh may be taken as a specimen of the whole country. In the year 1823, the householders of this city sent a petition to Parliament, complaining of their own individual case. The petition *was confined to householders* possessing real property within the town, of the value of 5*l.* a year and upwards. Of these there were only 10,168 in the place; and, deducting minors, females, the sick, the absent, &c., the number was diminished to 7626. Yet the petition was signed by 6847, *being the whole householders of the place capable of acting, except 779.* That petition was rejected in the Commons by 99 against 75. It was renewed in the year 1826, when it was subscribed by 7242 householders; being 395 above the number of signatures three years before. These, it will be observed, were the results of two appeals made to householders alone, and to classes of householders from which *above 10,000 of the poorer ones were rigidly excluded*; and without any effort to obtain a single signature, beyond one public meeting, and a printed exposition of the facts. The whole of Scotland is probably in the same state. The people have hitherto been silent solely from despair.

If they are disposed to urge their case now, they should make up their minds cautiously as to what they ought to demand. In doing this, they may be assured that their strength lies in moderation and in reason; and that the slightest approach towards the adoption of the visionary projects which, in other parts of the country, have sometimes made the very word *reform* disgusting, will certainly be fatal to their claim. It does not seem to us that there is much difficulty in deciding on the remedy at which they should aim.

1. *In the counties*, every existing right ought to be left untouched. In giving the franchise to others, there is no necessity for taking it from those who already have it. The more who have it the better. And there is no sense in creating the obstacle which always arises when existing rights are proposed to be destroyed. Many people have a great dislike at what are called the paper votes; *i.e.* the votes that are manufactured by conveyances without any real property. But the truth is, that these are the best votes in the country. They are the



only ones that are accessible to those who are not landed proprietors. They certainly throw great power into the hands of these proprietors; but this is one of the natural consequences of property; and they admit of being well distributed as easily as ill. Accordingly, these parchment Barons are, politically, the best Barons in Scotland.

Every thing that is being let alone, the first thing to be introduced, is a proper qualification. What this ought to be will require great deliberation and some inquiry. But it is a subject which our present object does not lead us to discuss. We cannot be worse than we are; and it would be a prodigious gain, though our new qualification should be set as high at its zero as the highest that exists in the empire. This, however, would give no permanent satisfaction, and therefore any change that is to be introduced should rest on some solid and rational principle. Usage, and a tinge of feudal prejudice, have made many reasoning persons incapable of fancying any basis for the franchise except land. But it seems very difficult to justify this on common sense. Why should a person be allowed to assist in electing a member of Parliament because he has an estate worth a thousand pounds, and this permission be denied to one who has a million of pounds in money? The one man's wealth being in earth, the other's in gold, seems to be a very odd reason for the difference. Personal property is as valuable, and has as much interest in the state as real. Perhaps the sense of the thing is, that wealth ought to be the basis, without taking any account of the form it appears in, and *that payment of taxes* ought to be the evidence of its existence. But these are matters foreign to the present purpose. We must not lose all the substance for the best theory. All that we have to urge now, is, that some qualification or other should be introduced *which shall have the effect of admitting the intelligence of the middle rank of society, and of the upper part of the lower rank*. Whether the probable possession of this intelligence is to be inferred, as heretofore, from land alone, or from any other species of wealth, or from contribution by taxes to the State, 5*l.* a year would not be too low, and any thing beyond 10*l.* a year would be too high.

The qualification being fixed, the only thing that remains is to let in the qualified persons. They would vote along with those who are already qualified, or may choose to become so under the existing system. The qualification arising from real property must be made to attach to the ownership of houses, without which, indeed, nothing effectual can be done. And therefore, whenever there was a town not comprehended within the sixty-six Royal Burghs, it would form a part of the county;—a woful proposal, no doubt, for the country gentleman, but absolutely necessary for the welfare of the community. Things cannot last as they are; and the more gracefully they are changed the better.

2. For the *Royal Burghs* there are two ways of proceeding;—either to let the magistrates continue to elect by delegates, but to make the appointment of the magistracy depend on the people; or to leave the municipal structure of the towns as it is, but to throw the election of the member at once into the hands of the persons having the new qualification. Some will be disposed to prefer the first of these schemes, because it implies a reform in the constitution of the burghs, which is a subject on which the people have very deep feelings, justified by intolerable grievances. But the wiser resolution, with reference purely to the representation, is clearly to adopt the other course. In the *first*



place, to connect the reform of the representation with the reform of the burghs is to obstruct a very simple case by one which may easily be made extremely complicated; and, in the *second* place, even though the magistrates were to be properly appointed, no system of representation can ever be good which withdraws the direct election of the member from the people, and vests it in any interposed body. Delegates in every shape are bad. The true course is, to fix on the qualification, and then to let the qualified persons meet the proposed representative face to face.

The qualification for towns would probably require to be somewhat different from that for counties. But it ought not to be higher; and if it did not include a certain description of tenants, it would exclude large classes of the wealthy and best educated persons. Edinburgh stands clear of all connection with other burghs. But where four or five of them are united, it has sometimes been stated as a difficulty, that except by delegates, they could not be brought together to elect. There is no difficulty in this at all. All that is necessary is, that the qualified persons should vote at any of the burghs that they pleased, and the result would be determined by the sum total of votes, when collected and examined. The small places will, probably, insist that the election shall depend, not on the majority of individual votes all over each class of burghs, but on the majority of burghs; because this would throw as much power into the hands of the most insignificant place as into the hands of the most important. But yielding to this would exhibit the spectacle of a member who was chosen by three hundred people, composing three burghs of a hundred votes each, although he were rejected by ten thousand who happened to live in one place. Each class of burghs should be dealt with exactly as if they formed one town, which had the privilege of voting at a variety of spots. It is the average mind of the whole that ought to prevail.

The safety and the advantages of these reforms can be doubted by no sensible man, who either respects the constitution or experience. This is the system which does not merely work well in England, Ireland, and Wales, but which works so well that the government could not be maintained for a single year without it. The Scotch have never been tried with it; but if it be safe and beneficial anywhere else, it must be more safe with the people who are most cautious and educated, and more beneficial for those whose public character has hitherto been depressed by systematic exclusion from the exercise of political rights. It is scarcely twenty-five years since they were trusted with even the election of their own Commissioners of Police; and the first recognition for this purpose of numerous classes of voters, beginning at 10*l.* a year, was only yielded with a grudge, and with many a demonstration that it would lead to nothing but disorder and riot. It was within a still shorter period that they were allowed to act as jury-men in civil causes; and this also was only conceded with great alarm. Many other inferior points have been gradually obtained; all tending to liberate the people from that detestable system of distrust and insignificance in which they used to be kept. If we had wished for a triumphant answer to all these fears, we could scarcely have got a better one than what is afforded by appealing to the results of these experiments. They have not merely succeeded, but they have succeeded with a degree of facility and quietness, which is the best



evidence of the advance of the public mind, and of its being fully prepared for the exercise of still higher rights.

There never was a time in which these rights could be asserted with better reason. Not merely, because the people are powerful, but because their power is founded on knowledge and right feelings. The case of the Scotch representation is in itself so perfectly clear, that were it not for fear of the call for reform in England, we should have no doubt of its amendment being conceded. The outcry that will be raised by our own corporation of electors, though it may probably be the loudest, is to be utterly disregarded. The whole of our representatives voting against increasing the number of their constituents, would only be a proper commentary on the system that returns them. But though our only hope, on the whole, is from England, we are exposed to two risks from that quarter, — one arising from the enemies of English reform being anxious to resist a precedent, — the other from its friends being lukewarm about any improvement which does not apply exactly to themselves.

The friends of Scotland, however, must do their own duty. If it be true that the people are pleased, they have only to continue silent. If they be displeased, they must employ the ordinary means by which redress of grievances is obtained. The redress of this one is no party measure. It is the case, of course, of all those whose general principles incline them to the popular side. But still more is it the case of him who professes to be a lover of peace, — who must know that there will be no peace in these realms until the restless and wearisome projects of the visionary are put down, by some change which shall destroy the abuses from which they derive their dangerousness; — of him whose rule it is to strengthen the hands of government, — which he can never do by depriving government of the public co-operation; — and of him who calls himself the friend of the monarchy, — which he must be blind indeed if, in these times, he does not see cannot be more effectually undermined than by letting the people grow in number and in sense, but always with a just grudge at their condition. There are only three sorts of people whose case it is not; — the fool, who holds the constitution itself to be a grievance; the demagogue, whose vocation ends with the removal of popular discontents; and the forlorn elector, who looks at his twelve children, and would like to have all that is going to himself. With these exceptions, this is the case of every man who wishes Scotland to be respectable, and public affairs to have the benefit of its people's reason.

We must warn our countrymen, however, not to stir this question at all, unless they be resolutely determined to persevere in their exertions for its accomplishment. Nothing is so injurious to a claim of this kind as a short-lived ebullition. It is the best evidence that those who urge it, think it groundless or unimportant. The excitement of a few public meetings, and a few petitions, is soon over, and soon forgotten. They are powerful engines; but they require management. Nothing is to be gained without concert; — without the press; — without moderation; — and, above all, without perseverance. It is only by repeated movements, that deep impressions are produced on the public mind. It is not by a single blow, however judiciously aimed or successfully struck, — but by the constant repetition of the assault. Those who undertake a public cause, ought to remember, that in the

case of the Catholics, it took above a hundred years to convince the most intelligent nation upon earth, that religious persecution could never benefit the persecutor; and that in the case of the slave-trade, thirty years were spent in discussion, before a senate of enlightened Christians could be induced to act on the conviction, that man-stealing, torture, and murder could never be lawful or expedient. They ought, therefore, to reflect before they begin. They ought to summon up a spirit of determination worthy of the object; and to go on, if they move at all, under the conviction, that to let their cause rest is only apathy, but that to let it be lost from inertness is treason. If the people of Scotland be true to themselves, the result is certain. Whether the triumph be witnessed in our day, or not, is a different and inferior question. By energy and union it certainly might. Far greater and far more hopeless measures have, after it has been made plain that they were never to be abandoned, succeeded in a moment, and even when the expectations of their friends were lowest. The result does not depend on the enemies, but on the friends, of the measure. If the excluded be firm and wise, they have no enemies to fear.\*

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## CHURCH REFORM.

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### ON THE PRODIGALITY AND CORRUPTIONS OF THE ENGLISH AND IRISH CHURCH ESTABLISHMENTS. †

WE should think it strange to hear it argued, that, because of the importance of a Secretary of State's office, or a Revenue Board, its establishment should be suffered to continue in whatever state of confusion time or neglect might have thrown it; that though one half the

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\* In Vol. xxx. p. 503., there is an article on the Scotch Burgh System. Of the other Essays on Parliamentary Reform, I have selected those which are likely to be deemed most interesting at the present crisis. It must be admitted, that the Edinburgh Review has not maintained the same bold, consistent, and uncompromising tone on the great question which now agitates the nation, that gave such value and popularity to its efforts in defence of many other measures of constitutional improvement. Its policy on this vital subject was always too cautious and vacillating, and the improvements which it recommended in the representative system were not sufficiently broad and comprehensive to remove those glaring abuses, from which so frightful an accumulation of evils has sprung. Under its present admirable management, the Edinburgh Review has strengthened its tone, and advocated those sentiments, in reference to the Reform Bill of the present Ministry, which are in accordance with the sentiments of the great body of the people. See Vol. x. p. 407. Vol. xiv. p. 277. Vol. xvi. p. 204. Vol. xvii. p. 253. Vol. xx. p. 127. Vol. xxvi. p. 367. Vol. xxvii. p. 381. Vol. xxviii. p. 126. Vol. liii. pp. 232—478.

† 1. Remarks on the Consumption of Public Wealth by the Clergy of every Christian Nation, and particularly by the Established Church in England and Wales, and in Ireland; with a Plan for altering its Revenues, &c. &c. 2. The Rights of the English Clergy asserted, and the probable Amount of their Incomes estimated, in a Letter to the Author of "Remarks on the Consumption of Public Wealth," &c. By Augustus Campbell, A. M. Rector of Wallasey, in the County of Chester.—Vol. xxxviii. p. 145. February, 1823.



clerks should be too poor to be enabled to attend to their duties, and the other half so overpaid as to be tempted to neglect them,—though some of them had no desks to write on, and others desks which they never occupied,—though one half the business was ill done, and the other not done at all,—still our great anxiety for the duties that were neglected should not tempt us to mend the matter, but to compel us to let it alone, or to heap money upon the functionaries, under the certainty that it would be misapplied.

The course which has been actually pursued towards the Churches of England and Ireland, in modern times, has not been very unlike this hypothetical absurdity. They have been like the daughters of the horseleech; their cry has been, '*Give! give!*' The Legislature, acting upon this supposition, that money, no matter how unskilfully applied, would secure the performance of the duties of any office, has shown singular alacrity in complying with this demand. A brief history of the application of the hereditary revenue of the Crown, and subsequently of Parliamentary grants to the augmentation of ecclesiastical revenues, will show as much rapacity on the part of the Clergy, and as wasteful an expenditure of the property of the people on the Church, as was ever exhibited in the darkest times of Romish superstition.

It is well known that by the statute 26 Henry VIII. chap. 3., the first-fruits and tenths of spiritual preferments (which had formerly been paid to the Pope, or some other spiritual persons,) were given to the King. The First Fruits were the revenues and profits for one year of every such preferment, and were to be satisfied or compounded for on good security by each incumbent, 'before any actual or real possession, 'or meddling with the profits' of a benefice. The Tenths were a yearly rent of a tenth part of all the revenues and emoluments of all preferments, to be paid by each incumbent at Christmas. These revenues were, as the statute phrases it, 'united and knit to the Imperial 'Crown for ever.' By the same statute, a provision was made for a commission to be issued by 'the King's Highness, his heirs and successors, *from time to time*, to search for the *just* and *true* value of the 'said first fruits and profits;' and similar means were provided for ascertaining the value of the tenths. In consequence of this statute, which was suspended during the papistical reign of Mary, but revived by the 1st of Elizabeth, a valuation was made, which is supposed to have been at the time an accurate one, of the yearly profits of the ecclesiastical preferments; and, according to this valuation, the first fruits and tenths were, as the 1st of Elizabeth has it, well and justly answered and paid, 'without grief or contradiction of the Prelates and 'Clergy of the realm, to the great aid, relief, and supportation of the 'inestimable charges of the Crown;' which inestimable charges may then possibly have amounted to a two-hundredth part of their present yearly sum.

Under this valuation, which, in course of time, became quite unequal to the real emoluments of the preferments, these charges continued to be paid till the 2d year of Queen Anne, 1703, when an act was passed, reciting the Queen's most religious and tender concern for the Church of England, stating, that a sufficient settled provision for the Clergy in many parts of the realm had never yet been made, and giving to a corporation, which was to be erected for the augmentation of small livings, the whole of the first fruits and tenths. Her Majesty, however, in her religious and tender concern, was completely overreached by



the Clergy. The professed object of the Queen was to increase the provision of the poor clergy ;— the real and only immediate effect of it was to release the rich Clergy from a charge to which, by law, they were liable. We have before mentioned, that a provision was made in the statute of Henry VIII. for revising, from time to time, the valuations under which the first fruits and tenths were paid. It was not improbable, that the Clergy were apprehensive, as the nation was then (in 1703) engaged in an expensive war, that such a revision might be made ; and in persuading the Queen to renounce her hereditary revenue for the sake of ‘ her poor Clergy,’ they contrived, most effectually, to secure themselves by the following ingenious clause, the last in the statute in question :

‘ VI. And whereas four bonds for four half-yearly payments of the first fruits as the same are rated, and also a fifth bond for a *further value or payment* in respect of the same first fruits, have been required and taken from the Clergy, to their great and *unnecessary* burden and grievance : for remedy thereof, be it enacted by the authority aforesaid, that from and after the 25th day of March, in the year of our Lord 1704, one bond only shall, in such case, be given or required for the four payments of the said first fruits ; *which said first fruits, as well as the tenths* payable by the Clergy, shall hereafter be answered and paid by them according to such rates and proportions only as the same have heretofore been usually rated and paid ; and no such fifth bond already given shall, from and after the said 25th day of March 1704, be sued or recovered.’

This clause is so ingeniously constructed, that it has actually puzzled some abridgers of the statute ; and its real meaning has escaped many. The marginal abridgment in the Statute book gives it ‘ one bond only to be taken for the four payments of the first fruits ’— than which, nothing can be more reasonable— or more different from the real import of the clause. If the real purpose of this act of Anne had been to augment the small livings, nothing could have been more reasonable than to do it by enforcing the legal claim for the first fruits and tenths on the holders of the larger benefices. The scandalous poverty of some livings (for there were then 1071 which did not exceed 10*l.* a year) would then have speedily disappeared : but, as the old and insufficient rate of payment was fixed and made perpetual, the most religious Queen went to her grave without seeing any effect from her bounty ; as, in consequence of the incumbrances upon the fund, and the impossibility of increasing its produce, it was not till 1714 that the governors of the bounty were enabled to make their first grants.

The Clergy may say, perhaps, that this clause, though it relieved the greater benefices in an indirect and fraudulent manner, was yet substantially proper, because the payments, according to the rate of Henry VIII. had been continued so long, that to have raised them would have been cruel and unjust. But, in the first place, the Clergy well know, that in the case of their own claims against the laity, this argument *ad misericordiam* is never permitted to avail. A composition, an accustomed rate of payment for tithes, which had continued from the time of Henry VIII., or even from the time of Henry III., to this day, would not be permitted to stand an hour after it was the wish of the clergyman to set it aside. This is no matter of mere speculation ; day by day *rank moduses*, as they are called,—compositions which, though they have continued from time out of mind, yet bear evidence of not



having existed before the return of King Richard from the Holy Land,—are set at nought. No *modus* for hops, or any product which has been introduced into England since the 12th century, will stand. There was very recently an instance of some sinecure priests of a cathedral (Exeter) succeeding in setting aside, in a court of law, a composition for tithe, which confessedly had existed for centuries, and on the faith of the continuance of which, the land must have been bought, and sold, and inherited, and rented,—because there were presumptions against that extreme antiquity which is necessary to make a *modus*. Even in the case of real compositions, *i.e.* of land granted in lieu of tithes, a practice which was restrained by the 13th Elizabeth, whenever the evidence of the agreement has been lost, or when, as sometimes happens, it is not worth while to institute the expensive inquiries necessary to get at it, the composition is set aside; that is to say, the parsons take the tithes, and keep the land. It is pleasant to see the rich clergy, who thus enforce their own privilege against prescription, establishing in so short a time a prescription against the King, and finally making use of it to frustrate the effect of the royal bounty to their poorer brethren. In the *second* place, there could have been not even a pretence of suffering, if *the actual incumbents* had been exempted from the payment of the tenths (first fruits would have been, of course, out of the question), according to the real value. But then translations, and that continual shifting from benefice to benefice in which the Church delights quite as much as in the immutability of its institutions, would have been checked.

The cunning of the rich clergy, in thus shifting from themselves the burthen of contributing to the relief of their poorer brethren, is only to be matched in degree by the folly shown in the application of the diminished revenue which this trick of theirs still left for the improvement of small livings. At the time when Queen Anne's Bounty Fund was established, there were, according to the returns, which were not quite accurate, 5597 livings in England and Wales with incomes not exceeding 50*l.* They were thus classed:

Not exceeding 10 <i>l.</i>	-	1071
20 <i>l.</i>	-	1467
30 <i>l.</i>	-	1126
40 <i>l.</i>	-	1049
50 <i>l.</i>	-	884

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5597

The sum which the Governors of Queen Anne's Bounty had to apply to the augmentation of these livings averaged about 13,000*l.* a year. Any rational being would suppose, that, under such circumstances, the Governors and the Legislature, by whom the disposal of the money was directed and superintended, would have made some inquiry into the circumstances of the different livings. Some of these livings were of very small extent, and scarcely any population, and might therefore have been advantageously united with one another, or with other parishes. The specific evil which was to be remedied was set forth in the preamble to the statute of Anne, in these words: That 'diverse  
' mean and stipendiary preachers are in many places entertained to  
' serve the cures, and officiate there, who depending for their necessary  
' maintenance upon the good-will and liking of their hearers, have  
' been and are thereby under temptation of too much complying and



‘ suiting their doctrines and teaching to the humours, rather than the good, of their hearers ; which hath been a great occasion of faction and schism.’—(Precious philosophy !)—At least, therefore, one should have thought that some distinction would have been made between places where there were many hearers, and those where there were few or none. Some even might have been so extravagant as to expect that, when a sum was bestowed on any particular living, some security should have been taken for the residence of the incumbent. All these notions were, however, very foreign from the minds of the persons who had the distribution of Queen Anne’s bounty. The governors of this fund proceeded upon the idea which is commonly entertained in England respecting the Church Establishment, especially by its own functionaries, that, provided a sufficient sum of money be laid out on the clergy, every other good will follow ;—that, how absurd soever the distribution may seem, it is not for human hands to destroy the latent harmony of casual proportions. Above all things did they eschew the idea, which the Church abhors, that where the public confers an obligation, it has a right to exact the performance of a duty. Among the livings on which they had to scatter the money, several were large and populous parishes, where the tithes had been impropriated ; and these, if the holders of the tithes were not, as is often the case, ecclesiastical sinecurists (or dignitaries, as they are called), whose incomes were at the disposal of Parliament, would have been proper objects for augmentation ;—always supposing, what is false in point of fact, that an increase in the emoluments of a living has any tendency to secure the performance of clerical duties. Others were rectories of which some were endowed with the tithe of all the produce of their districts, but which were so insignificant as neither to need a separate clergyman, nor to afford a maintenance for him. In the case of such livings, instead of attempting to swell the income of needless offices, the natural course would have been, to have consolidated their neighbouring benefices, and in no case to have made any augmentation, except when the revenue arising from a district of extent and population sufficient to need the cares of a clergyman, should be found insufficient to his maintenance. But this would have violated the fundamental principles of the excellent Church ; it would have insinuated a connection between money expended and duty performed ; it would have seemed like an adaption of means to an end ; it would have made some inquiry and consideration necessary.

The Governors of the Bounty proceeded bountifully ; they distributed a part of their money in sums of 200*l* on any poor livings to which any private person would give an equal sum. The rest, and far greater part of their money, showing them no respecters of persons nor of circumstances, these representatives of the ecclesiastical wisdom of the nation, distributed *by lot*, letting each poor living take an equal chance for a 200*l*. prize, without any regard to the degree of urgency of its claim. After this, the story of Bridoye deciding suits at law by dice, after making up a fair pile of papers on each side, seems no longer an extravaganza. Up to January 1, 1815, the Governors had made, in this way, 7323 augmentations of 200*l*. ; but, with benefices as with men, fortune is not proportioned to desert or to necessity. Some of the least populous parishes had a wonderful run of luck. We are not sure that, in taking a few of them which meet our eyes in running over the returns, we have selected the most remarkable. In the diocese of Chichester, the rectory of Hardham, which in 1811 contained 89



people, has received six augmentations by lot, or 1200*l.* The vicarage of Sollington, with 48 people, has had six augmentations, 1200*l.* In the diocese of Salisbury, Brewilham, drew a prize; it contained 14 people. Rotwood drew another; it had but 12 people. Calloes had 1000*l.*, including a benefaction of 200*l.*; its population was, in 1811, *nineteen*. In the diocese of Winchester, St. Swithin, with 24 people, has received 800*l.*, including a benefaction of 200*l.*; and 200*l.* has been expended upon Ewhurst, which has seven people. In the diocese of York, Ruthewick, with 62 people, has had five prizes, 1000*l.*; while Armby, with 2941 people, and Allendale, with 3884, have only gained one each. In the diocese of Rochester, two livings, with 28 and 29 people, received separate augmentations. In the diocese of Oxford, the rectory of Elford or Yelford, with 16 inhabitants, drew a prize. In Lincoln, Stowe, with the same number, and Haugh, received 800*l.* from the Bounty Fund; the number of all its inhabitants is *eight*. When it is considered, too, that Haugh pays vicarial tithes, which amounted, in the reign of Henry VIII., to 6*l.* 13*s.* 4*d.* of yearly value, it must be admitted that this important district has been guarded against the danger of schism with a liberality worthy of a Protestant government. If the rest of the people of England were fortified in sound doctrine at the same rate of expense, the proper establishment of religious teachers in England and Wales would cost about 1200 millions sterling, and 1,500,000 parochial clergy, who, as Dr. Cove allows each of them a family of nine, would form a considerable portion of our population. In the diocese of Landaff, we find two places, following one another in the returns, which illustrate the equity of *le sort des dez*. Usk, with 1339 people, has had an augmentation (though its value remains low). Wilcock, a rectory with 28 people, has had *three*. In Hereford, Hopton Cangeford has received 1000*l.* for 35 people. Monmouth 200*l.* for 3503.

Even in cities, where the scattered condition of the population could afford no pretext against the union of parishes, the same plan of augmentations has been pursued. In Winchester, *separate* augmentations have been given to seven parishes, the population of all which united would have amounted only to 2376, and would consequently have formed a very manageable and rather small town parish. In short, the whole of the returns (printed by the House of Commons in 1815, No. 115) teem with instances of the most foolish extravagance — just such a result as the original conception of this clerical *little-go* would have led any rational being to anticipate. The conviction is irresistibly forced upon us, that nothing could have been further from the minds of those who superintended this plan, than to secure a competent provision for all the members of the Church, and to remove the poverty of some of its members, — which is, by a strange manner of reasoning, made a defence for the needless profusion with which the public wealth is lavished upon others. Indeed we are led to suspect that ‘the Church, in her corporate capacity,’ looks upon the poverty of some of her members as sturdy beggars look upon their sores, — she is not seriously displeased with the naked and excoriated condition of her lower extremities, so long as it excites an ill-judged compassion for the whole body, and secures her impunity in idleness and over-feeding.

We are sometimes told that the poverty of a large body of the parochial clergy is such, that it is out of the power of the higher clergy, even by the surrender of their whole revenues, to remedy it. The statement we have given shows most clearly, that this poverty is

to be attributed, in the first place, to the fraudulent subtraction of the higher clergy from the burthen of contributing to the relief of their poor brethren; and, in the second place, to the absurdity of the ecclesiastical division of the kingdom, which, on the slightest effort of the Clergy, would have been remedied by the Legislature. If the first fruits and tenths had been paid subsequently to the gift of Queen Anne, according to the rate which the law provided for, and as they had been paid ‘without grief and contradiction,’ *i. e.* according to the real value of the benefices, instead of a million and half, at least 30 millions would have been received from those taxes; — a sum not only quite sufficient to have removed the poverty of all the poor livings in the kingdom\*, but to have established schools in every parish of England, and to have left a large surplus for any other useful purposes.

In the course of these augmentations, no security has been taken against non-residence or plurality. The Governors go on, therefore, increasing the incomes of two small livings, in order to make each of them capable of supporting a resident clergyman, while after, as well as before, the augmentation, one incumbent may hold them together — reside on neither — and allow only a small part of the accumulated income to a curate, who performs the duties of both! Those who complain of the poverty of the Clergy pretend to suppose that no security for residence is necessary; and that, as soon as the small livings are raised high enough, non-residence will disappear as a matter of course. For instance, Dr. Cove says, ‘All her sons’ (the Church of England’s sons) ‘employed in her offices, are, with few exceptions, ever intent upon their appropriate duties, and would be still more diligent in the discharge of those duties, were each of them possessed of a *more enlarged and comfortable independence*, and furnished with more suitable places of abode.’ This, unfortunately for the Doctor, is an assertion more capable of being brought to the test than the ‘*uncorded revelation*’ to Adam in favour of tithes. We have returns of small livings, and we have returns of non-residence. In the diocese of Rochester, there are only six livings under 150*l.* a year; and of those six, not one is returned under 110*l.* Of the 107 benefices returned in that diocese, there were in 1809 but 50 with resident incumbents — less than half the livings. In the diocese of Chester, where the livings under 150*l.* a year are numerous, 377 out of 592 being of that description, a considerably larger proportion of the benefices have resident incumbents than in Rochester: there are 327 residents. In the other dioceses, the number of poor livings bears no regular proportion to that of non-residents. The fact is, that under the discipline of the Church of England, where there are so many grounds of exemption or of license for non-residence, the only persons who may be expected to reside are those whose narrow incomes make their residence in their own parsonages a matter of necessity or convenience. But as two or three small livings may be held by the same person, the incumbents of them may, on the face of the returns, appear as negligent as their richer brethren.

The history of the evasion of the payment of first fruits by the clergy in Ireland is striking in point of audacity, on account of the peculiar state of the Church in that part of the kingdom. The enormous incomes of the Irish bishopricks are pretty well known, and have been brought into general notice of late years; but it is not so distinctly

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\* In 1809.



known what duties these functionaries have to perform. Mr. Campbell says, ‘ the power, the influence, and the wealth of some of the bishops may be great ; but from my heart, I believe, that these are dearly ‘ bought, not only by the *anxiety*, but the *actual labours* both of *body* ‘ and *mind*, which arises from their official duties.’ *Nolo Episcopari*, is a phrase easily to be accounted for by this appalling picture ; but we suspect, from a few notorious facts, that Mr. Campbell’s imagination has exaggerated the horrors of a bishoprick, and that a bishop even in England is not so broken down with hard work as the rector of Wallasey supposes. The bishop of St. David’s, for instance, in addition to the actual labours of body and mind attached to his bishoprick, is able to undertake the arduous duties of a prebendary of Durham. The present bishop of Landaff adds to his episcopal duties those of Dean of St. Paul’s. The late bishop of Lincoln (Tomline) did the same, and Lincoln is the largest diocese in England. The late bishop of Bristol (Mansell), besides holding a living or two, was master of Trinity College, Cambridge, where he generally resided. In fact, whatever offices *can* be held with bishopricks *are held* with them ; and as it would not be polite, nor, we believe, just, to suppose these Right Reverend Pluralists neglect the duties of any of their offices, we must conclude, that a bishoprick alone must be a very supportable burden. We mean a bishoprick in England. Now, the duties of a bishop, who is the general superintendant of the clergy and church-people in his diocese, must have some reference to the number of these two classes. In England, the number of benefices within the different dioceses are various, from 1319 in Lincoln, to 107 in Rochester, averaging about 420 parishes to a bishoprick. The fabric of the Church of Ireland is very different in the proportions of the higher and lower parts, and resembles, more than any thing else, a regiment of volunteers raised in the same country, which contained sixteen Lieutenant-colonels, two drummers, and a private. The following is a Table of Bishops, Parishes, and Clergy.

PROVINCE of ULSTER :		{ Parishes or unions of parishes.		
Diocese of	Armagh	-	-	78 - (The Archbishop’s.)
—	Clogher	-	-	44
—	Derry	-	-	54
—	Down and Connor			79
—	Dromore	-	-	23
—	Kilmore	-	-	33
—	Meath	-	-	101
—	Raphoe	-	-	31
—	Ardagh attached to the Archbishop- rick of Tuam	{		25

443, with 351 incumbents resident, or near enough to do the duty.

#### PROVINCE of LEINSTER :

Diocese of	Dublin	-	-	87 - (The Archbishop’s.)
—	Kildare	-	-	43
—	Ossory	-	-	59
—	Leighlin and Ferns			92

281, with 189 incumbents resident, or near enough to do the duty.

PROVINCE of MUNSTER :		{ Parishes or unions of parishes.		
Diocese of	Cashel	-	-	57 - (The Archbishop's.)
—	Waterford and	}	-	52
	Lismore			
—	Cloyne	-	-	77
—	Cork and Ross	-	-	77
—	Limerick & Ard-	}	-	105
	fert			
—	Killaloe and Kil-	}	-	51
	fenora			
				419, with 281 incumbents resi- dent, or, &c.

PROVINCE of CONNAUGHT:				
Diocese of	Tuam	-	-	24 - (The Archbishop's.)
—	Clonfert and Kil-	}	-	14
	macduagh			
—	Elphin	-	-	37
—	Killala and Achonry	-	-	20
				95, with 65 incumbents resi- dent.

In the whole Church of Ireland, there are thus 1238 parochial benefices\*, with 860 resident incumbents. There are, in all, 1131 churches;—454 in Ulster; 264 in Leinster; 321 in Munster; and 92 in Connaught.

We should excite a horrid outcry, if we applied the rule of three, or any process of reasoning which leads to a definite result, to such a matter as a bishoprick; but we should really suppose that the Bishop of Lincoln, who, as we have shown, is not over-worked, must do more (not taking into account the works of supererogation, which must not be reckoned on in every bishop,) than all the bishops in Ireland taken together. We speak this as Scotchmen, and in perfect ignorance of the delicacies of the Episcopal functions. ‘A hen with *one* chick’ is a familiar image of bustle; and a bishop’s anxiety, and ‘his actual labour of body and mind,’ may increase as the number of his subordinate clergy diminishes. Speaking under this caution, it strikes us as monstrous to preserve this vast and appalling apparatus of Episcopacy to superintend eight hundred and sixty resident parochial clergy, the whole of whose flocks do not amount to more than 400,000 or 500,000, in a country with near seven millions of people. Two bishops would be quite sufficient for all the duties of ecclesiastical superintendence. The average of the incomes of the 22 archbishops and bishops of Ireland are much larger, on the average, than those of the prelates of England; and ten parts out of eleven, at the least, are bestowed purely in *waste*. But it is not to the bishopricks alone that this useless expenditure of wealth on the clergy is confined. The tithe of the produce of a country which feeds seven millions of people, is, for the most part, bestowed upon the teachers of a fourteenth part of the population. But in some parts of Ireland, generally throughout the province, in addition to the whole of the tithe, the parochial clergy are in possession of large estates, under the name of glebe lands; while in some parishes,

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\* A number of parishes are sometimes united in Ireland, to form one living. According to the original division, there were 2259 parishes.



on the other hand, with the characteristic inequality of the Establishment, there is not even a house for the clergyman to reside in. In the diocese of Derry, according to the returns of 1807, corroborated by those of 1819, there are 16,747 acres of glebe (besides some portions the extent of which is not stated \*), which would give as the average an estate of 320 or 330 acres for each parson, besides all the tithes. A tenth part of the produce of a district containing, we believe, 200,000 inhabitants, is thus divided among 54 clergymen; and they have each, over and above, on the average, an estate of 320 or 330 acres of land. In the diocese of Kilmore, the incumbents have returned 11,450 acres of glebe, though three of them do not mention the amount of their estates. The average in Kilmore, excluding these defects, is 350 acres of glebe for each benefice. In the diocese of Armagh, there are eight parishes, having each of them more than 500 acres of glebe. One of them has 946, another 1082, another 4000.

With so large a portion of the national wealth placed at the disposal of the clergy, the very least that we might have expected the Legislature to do was, to enforce the payment of all the taxes to which the Church was by law liable. It is almost incredible, however, that money raised in taxes, not from the clergy, but from the most miserably poor people in Europe, the people of Ireland, has been expended in the purchase of glebe lands, aye, even in those two dioceses of Kilmore and Derry †, the glebes in which, if divided into equal parts, would give a glebe of 20 acres for each parish in Ireland. By a law of Henry VIII., the whole of the ecclesiastical preferments of Ireland were subjected to the payment of first fruits; and the same provision was made as in England for ascertaining from time to time their value. Instead of a tenth, they were charged with a twentieth of their yearly value. The Tory administration of Queen Anne absolutely remitted this twentieth to the clergy, rich and poor, without distinction. The first fruits alone were given to a fund for the increase of small livings and the purchase of glebes. On account, however, of the unsettled state of Ireland, long after the time of Henry VIII., the valuation of the livings was never completed. Only 900 out of 2259 parishes have been valued. The clergy, as ready to erect a prescription in their own favour, as reluctant to allow it against themselves, have insisted on this want of a valuation as a legal exemption from the tax, in spite of the positive law. On account of the nonpayment in the 900 parishes, and the small payments in the rest, under the antiquated valuation, the First Fruits Fund, which should be the whole first year's income of every ecclesiastical preferment in Ireland, produces, on the average, less than 500*l.* a year.‡

In 1808, Sir John Newport, who has laboured for the good of his native country with a degree of diligence and discretion as well as zeal not common in Irish statesmen, moved for leave to bring into the House of Commons a bill to authorize a new and complete valuation, which, even with the exceptions that he proposed to make in favour of the

\* *Ex. gr. Maghera*, is returned thus — ‘Glebe House; 320 acres near the church; another (*i. e.* glebe land) a mile; a third, four miles.

† Accounts from the Trustees of the First Fruits in Ireland, &c. Ordered by the House of Commons to be printed, 25th April 1811. No. 129.

‡ The produce in ten years, from 1801 to 1810 inclusive, was 4942*l.* 10*s.* 6*d.* We have not seen the subsequent returns. Mr. Hume states them at 3000*l.* in ten years.

small livings, would have produced between 20,000*l.* and 30,000*l.* a year. This motion was rejected, on the ground of the *hardship* of such a tax as the First Fruits. *How*, or upon whom, the hardship was to operate, neither our own inquiries, nor the imperfect notices left us of the debate, enable us to perceive. We need scarcely say, that this new valuation of the first fruits would not affect any one actually in possession of a living; and we should certainly object to the measure, if it were accompanied by a clause compelling a clergyman to accept a living whether he would or no. But as we apprehend Sir John Newport had not *compulsory induction* in view, the hardship must consist in this, — that a clergyman taking a living, however much he received beyond his deserts, would get less than he desired! In consequence of the trifling amount of the present fund, various sums, from 10,000*l.* to 50,000*l.* have been yearly voted in aid of it; and not much short of *half a million* has been bestowed in this way since the Union. This, perhaps, is the most wanton of all the misapplications of public money during an unexampled course of profligate expenditure. In Ireland, the Church, in the aggregate, was overgorged with wealth; and there was not the slightest difficulty in making its riches contribute to the necessities of its poorer members, without injustice to individuals. According to Dr. Beaufort, out of 2244 parishes which make up the parochial unions of 21 dioceses, 293 are in the gift of the Crown, 1391 of the Bishops, 21 of the University, 367 of private persons, 95 are impropriate, and without churches or incumbents. Thus, 1684 are in the hands of the Crown, or of nominees of the Crown. In respect, therefore, of more than two-thirds of all the parochial benefices of Ireland, besides all the dignities, there could not be the least pretence that ‘property’ would be encroached on, or valid rights infringed, by the sequestration of all or any part of the incomes, on the first vacancies. Let us take, then, the absurd hypothesis, that the ideal body, the Church, has an indefeasible right to the property which the clergy enjoy, we must at least admit that this property may be laid out *for the benefit of the Church*. The most extravagant advocate of the vested rights of a fictitious entity can hardly go the length of asserting that the Legislature should not have the power of directing the income of a corporation to be expended in the manner most conducive to the end for which that corporation was originally established. If, therefore, the building of churches, and the purchasing of glebes, were the most urgent of the wants of the Church, it would have been, according to any mode of considering church property, not only a justifiable, but the only proper mode of disposing of the incomes of the useless bishopricks and overpaid livings, to apply them to the relief of these necessities. But in the conduct pursued towards the Irish Church, we have the monstrous spectacle of a corporation not only claiming inviolability for the riches which destroy its health and threaten its existence, but (because those riches are distributed with preposterous inequality) extorting from an overtaxed people more money to supply the local deficiencies of that which is so excessive as a whole. When we think, that, in some years, more than the whole of the produce of the hearth-tax, or one-third of the net produce of the pestiferous window-tax, was applied in aid of the enormous funds of the Church,—when we reflect that this was done in a country which tithes, and taxes, and local assessments were keeping in a constant state of confusion and blood,—we are lost in wonder at the audacity which could advocate, and



the folly which could submit to, the extortion of this additional portion of the public property, for the use of an establishment of which the wealth has always been the weakness.

There is one quality without which this imposition upon the nation could never have been successfully carried on, a quality with which 'the Church, in its corporate capacity,' seems bountifully endowed — we mean cool and intrepid assurance both of assertion and demand. In the case of no other service to which public money is applied, would a demand be made upon the people for increased supplies, without an *attempt* at least to show that the sum-total of money expended is insufficient to procure the services required: quite otherwise in the Church. In the Irish diocesan returns of 1807 and 1819, we have some remarkable instances of the manner in which 'the Church' appeals to the nation for pecuniary help, at the moment that it affords evidence of its own superfluous opulence. We have before mentioned the condition of the benefices in the diocese of Derry as to glebe land, which, according to the average rent of land in that district, 18s. per acre, (according to Mr. Wakefield and others,) would give an income of 300*l.* a year for each clergyman, besides *all* the tithes. In addition to this, the Bishop of Derry has lands, which, if they were out of lease, would, it is estimated, produce 120,000*l.* a year. In 1807, the head of this diocese, in which the Church property, over and above the tenth part of the gross produce of the land, must be worth not much short of *three millions*, had to answer the circular query, — 'By what mode may the condition of such livings, as are of a value too small to afford to resident incumbents the means of comfort, be improved?' In answer, the Bishops, after mentioning the inadequacy of the First Fruits Fund, (we have shown how that has happened,) says, 'There is at present no other mode of improving such livings; but the funds may be increased by *the bounty of the King in Parliament.*' For the building and repair of churches, he says, 'Vestries should be empowered to lay on large sums, payable in *gales*;' — to lay on large sums, payable, not by the clergy, but by the laity. It never once occurred to this Bishop, that any part of the profits of the overgrown benefices, which he enumerated, should, as they became vacant, be applied to these purposes; nor does it occur to any one of the twenty-two Archbishops and Bishops in Ireland. 'The bounty of the King in Parliament,' and 'gales,' — a demand upon the treasury of the state, then engaged in an expensive war, — or a heavy and unequal tax upon the inhabitants of particular districts, — to these, or any other modes of getting the money, except the obvious and proper one, the Bishops have no objection.

We do not wish it to be inferred that Ireland is covered with rich livings. Indeed, in some places, the livings are so lamentably poor, that (as is expressed in the returns with the modesty characteristic of the Church) the incomes are 'scarcely sufficient to pay the salary of the curates;' the incumbents themselves, who are non resident, being reduced to the sad necessity of receiving very little for doing nothing. In one case, for example, the living of the united parishes of Dongore and Kilbride is returned as a 'preferment extremely small — 150*l.* a year nearly;' but we are relieved from our distress, by looking into another column, and finding that a resident curate does the duty for half the money, the incumbent being non-resident. Indeed, in the more lamentable returns of 1807, we always found the benevolence of



the curates stepping in to the aid of the misery of the incumbents. In the diocese of Limerick, according to these returns, the parish of Dromdeely was worth but 20*l.* a year. The incumbent, however, was not resident, and induced a deputy to perform the duty for thirty shillings ! a bargain, however, which was, in reality, less hard than might be supposed, as we find there was no church in the district. The test of the adequacy of the income of a living seems to be, that it affords comfort to the incumbent — after paying the salary of a curate.

In Ireland, there is the same beautiful diversity as to the extent and populousness of livings as in the sister kingdom. The country livings vary from 200 acres to 40,000 acres in extent. In many parishes there are no churches, though, *en attendant*, the tithes are not the less diligently collected. In the bishoprick of Waterford and Lismore, on 52 parochial benefices, there are but 38 ; and in Limerick with 105 benefices, but 69 churches. In a word, the Irish Establishment, in its present condition, seems calculated to answer no end but to make the Church of England appear excellent in the comparison ; a result which it would seem *à priori* to require some ingenuity to bring about.

The question, whether this Establishment should or should not be reformed, is one on which every man whose opinion carries with it the least influence should make up his mind ; and as to the answer to it, we, who see constantly before us the effects of a Church Establishment constructed on rational principles, can feel no sort of doubt. If it be merely intended by the Irish Establishment to show how rich and flourishing the few may be where the many are wasting in misery and ignorance,—if it be intended to show, that 850 men may be happy and idle, while millions are labouring for subsistence in vain,—the policy pursued towards it may be allowed to be rational and consistent. If the object be to attach the Irish people to the Protestant creed, the idea of stationing among a savage peasantry a number of beneficed clergymen, whose wealth supplies them with every temptation to desert their duty, and of making them raise their incomes by a tax which involves them in perpetual strife with that peasantry, is perfectly grotesque in absurdity. Whatever may be the supposed effects of a richly-endowed Church in maintaining a particular creed, it is evident that it is not the machine for the conversion of a people. In many parts of Ireland there are Church of Ireland clergymen in rich livings, with absolutely no Protestant parishioners. This state of things, though very deplorable for the Church in her corporate capacity, is the best that can be imagined for the Clergymen. So long as his parish continues free of Protestantism, he is free from all the conditions of service which are in other cases attached to the property of the Church. He must hate a convert, as a Justice of Peace hates a poacher. The way to insult him must be to enter his church. Mr. Reid, in his recently published *Travels in Ireland*, relates a story of a moral torture practised by a Catholic farmer on a beneficed clergyman, by regular attendance at a church, where, but for the presence of this unwelcome visitor, there would seldom have been a congregation. The neophyte soon brought the pastor to terms, and obtained a reduction of his tithes as the price of his relapse to the errors of the Church of Rome. It is evident, that the larger the incomes of the parochial clergy are, the less important the voluntary



contributions of their parishioners, the more unmixed will their motive be to keep the Protestant religion out of their parishes.

When we see the quantity of evil inflicted on Ireland by the levying of tithe,—when we see the good prevented, in a hundred ways, for the want of that wealth which is mischievously lavished on the clergy,—we can hardly believe that a reform of the Church of Ireland will not take place. A reform of that Church is, from the large proportion of its patronage in the hands of the Crown, or the nominees of the Crown, as easy as it is desirable. We Presbyterians can hardly conceive that there will be any one found bold enough to affirm, that a bench of twenty-two bishops, to superintend 860 resident incumbents, and to watch over 4 or 500,000 Protestants of the Establishment, is either useful or ornamental. According to the estimates of Mr. Wakefield, the property of *six* of these bishops\*, when out of lease, would produce 580,000*l.* a year,—a sum which would give an income of 650*l.* a year for each of the resident incumbents of Ireland; or, which would be quite as well, an income of 500*l.* for each of the clergy, and a fund for the establishment of a school in every parish in Ireland. All this could be done, and the tithes, as far as they are paid to the clergy, could be rapidly abolished by the mere sequestration of six bishopricks as they became vacant, without injury to the feelings or violation of the rights of any man. The details by which it would be necessary that such a plan should be filled up are very simple and obvious. When this reform should be accomplished there might still remain sixteen bishops to superintend a smaller number of Protestant clergy, and a smaller number of Protestant laity, than *one* bishop is very easily able to superintend in England. We do not mean to insinuate that they *should* be allowed to remain; but as our purpose is to do good, we would show, in passing, that even after an incalculable benefit had been conferred on Ireland, the Episcopal establishment might still remain extravagantly large, and form a very pretty fund for the purposes of Parliamentary influence,—the real purposes for which it is suffered to exist.

As to the Church of England, an inquiry into its actual condition must appear equally desirable to those who do, and to those who do not, think highly of its efficiency and utility. The smallness of the incomes of many of its livings is not complained of so loudly by any persons as by its most zealous friends. Now, if this clamour be meant as any thing more than a pretext for the maintenance of the extravagant parts of the Establishment, by making the members of it who are made inefficient through poverty, a set-off against those who are made inefficient through opulence, the general means of remedying the evil are obvious, and nothing but an inquiry is required to develop the details. The Table which we referred to above as the cause of the mistake of the author of the 'Remarks,' as to the numbers of places of worship in England, shows that, in 1812, the 1881 parishes, to which it referred, contained 4,937,782 people, so that each of those parishes had 2650 inhabitants on the average. The 8812 remaining parishes contained 5,564,718 inhabitants, or about 630 people each, as the average. In 1809 there were 3998 livings under 150*l.* a year; and there were also in the same year, out of 11,194 livings from which returns were made,

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\* Armagh, Derry, Kilmore, Clogher, Waterford, Cloyne.

7358 cases of non-residence. Though we have shown, by the comparison of the state of different dioceses, that the smallness of the livings is not the real cause of the prevalence of non-residence, it is at least one of the pretexts for it. The consolidation of small parishes, where circumstances admit of it, would at once remove this pretext, and the poverty of the greater part of the small livings; and the sequestration of some of the superfluous dignities of the Church, or the levying of first fruits and tenths, according to their real value, upon the overpaid preferments which might hereafter become vacant, would speedily raise the incomes of the remainder. The different distribution of the Church patronage,—the property of advowsons, to which we always suppose attention to be paid, renders a general reform in England a less easy and straightforward work than in Ireland. According to Bishop Watson's computation, in his Charge, 1809, seven tenths of the patronage of parochial livings were in the hands of lay individuals or lay corporations; three tenths being in the hands of the Crown, of ecclesiastical corporations (chiefly composed of nominees of the Crown), and of the Universities; and the greater part of the poor livings are the property of individuals. These circumstances, however, though somewhat untoward, oppose no insurmountable obstacles to reform. It is the interest of the patrons to submit to a consolidation of poor livings, making arrangements for alternate presentations; because, as a mere matter of merchandize, two livings of this description would be worth considerably more in their united than in their divided state.

Whatever other steps may be taken with respect to the Church of England, a Parliamentary inquiry into its condition is imperatively called for. It is called for, if it needs reform, to show the degree in which reformation is needed, and the way in which it may be effected. It is called for, if it needs no reform, to show that the imputations on it are unfounded. It is needed to prevent the repetition of the waste of the public money, of which we had such gross instances, when, in the time of the greatest drain on our resources, 100,000*l.* was granted yearly for the augmentation of poor livings, in utter ignorance of the manner in which the fund already available for that purpose had been mismanaged. It can only be resisted by those who, conscious of the grossness of the abuses by which they profit, think the Church alone cannot bear that exposure to the light, to which every other institution in the country is happily subjected.

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#### ON THE NECESSITY OF A THOROUGH REFORM IN THE GOVERNMENT OF THE CHURCH OF ENGLAND.\*

WE have been suspected, we know, of being unfriendly to the Church of England. But we are not—at least on the present occasion. The causes which led to her great Reformation, we think, indeed, should still reform her more; and, with the fullest sense of the general sound-

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\* Letters on the Church. By an Episcopalian.—Vol. xlv. p. 490. September, 1826.



ness of her doctrines, and the benefits which her establishment has conferred on the community, it is impossible to look back to the history of that Reformation, or round to the spread of Sectarianism, and the infinite changes which have since been wrought on the whole frame of our society, without feeling that things may then have been necessary which are now prejudicial — and that much might be adopted in a hurried experiment, which it would be improper to retain in a mature institution.

The subject is familiar enough in the mouths both of capable and incapable talkers : — but in reality it is little in their thoughts ; nor do we hesitate to say, that we do not know any other, of nearly equal importance, on which the public mind is so ill-informed, or to which it has been so little accustomed to direct a calm and scrutinizing attention, as the constitution of the Church of England by law established.

There are some persons to whom, instead of an objection, it would be a chief motive for pressing for Emancipation of the Church — that, in such an emancipation, the alienation of the Church revenues is necessarily involved. These persons do not wish to see the Ecclesiastical Establishment reformed, but utterly overthrown ; and its abuses answer their purpose, as tending to make the existing system unpopular. To us, on the contrary, it appears a resource of the highest value that so large a mass of property is set apart by the actual laws of England for the promotion of the physical and moral good of the people, by means so well calculated to effect it. We would call upon Parliament not to interfere with so benevolent an object, but to strive to realize it ; — to make the Church in practice what it is in theory ; — to be bold and decisive in reforming, but, above all things, to shrink from subverting the institution of a regularly-endowed parochial clergy. It is no ordinary national benefit, to have a number of well-educated men dispersed over every part of the kingdom, whose especial business it is to keep up and enforce the knowledge of those most exalted truths which relate to the duties of man, and to his ultimate destiny ; — and who, besides, have a sort of general commission to promote the good of those among whom they are settled, in every possible manner ; — to relieve sickness and poverty, to comfort affliction, to counsel ignorance, to compose quarrels, to soften all violent and uncharitable feelings, and to reprove and discountenance vice. This, we say, is the *theory* of the business of a parochial clergy. That the *practice* should always come up to it, it would be utter folly to assert, or to expect : but such is the innate excellence of Christianity, that even now, amidst all the imperfections of the existing Establishment, its salutary effects are clearly felt ; and in those numerous parishes, in different parts of England, in which there is no gentleman resident, the benefits of securing the residence of a well-educated man, with no other trade but that of doing good to the minds and bodies of his neighbours, are almost incalculable. It should be remembered, too, that it is one natural but most unfortunate effect of the English Poor-laws, to generate harsh and unkindly feelings between the labouring classes and the farmers, by whom, in agricultural parishes, the greatest portion of the Poor-rates is paid. In many places, therefore, the clergyman stands, as it were, as a mediator between the poor and their richer neighbours, inclined to protect and relieve the one, from the beneficent spirit of his profession, yet enough connected with the other, by his own rank in



society and habits of life, as to be unapt to encourage an idle and profligate pauperism.

There are other points, too, which might be mentioned, and which are not unworthy of the notice of an enlightened statesman. In retired parishes, the family of the clergyman is often a little centre of civilization, from which gleams of refinement of manners, of neatness, of taste, as well as of science and general literature, are diffused through districts into which they would otherwise never penetrate. And be it observed, that these are the very parts of the country which nothing but an endowed parochial clergy could regularly and permanently influence. In large towns, indeed, and in wealthy and populous districts, the unpaid zeal of individuals might often supply the place of a minister appointed and maintained by public authority. But in remote country parishes, where there are no inhabitants but farmers, and one or two small shopkeepers, besides the population of day-labourers, it would most commonly be impossible to find an individual willing or qualified to undertake such high and important duties. Such districts would at the best receive only occasional visitations from some itinerant instructor, — who certainly could ill confer all those various benefits, temporal and spiritual, which might be derived from a resident minister of only equal zeal and capacity.

These are the objects for which *we* desire to retain a religious Establishment; and which we would steadily keep in view as our best guide while reforming the actual institutions of the Church of England. It is evidently most desirable, that the Church should be completely identified with the People; that it should not only be uncorrupt, but should be generally acknowledged to be so; that while its terms of Communion were made as comprehensive as possible, so as to include conscientious members of almost every denomination of Christians, it should be most uncompromising in the standard of moral excellence to which it required its ministers to conform; and should watch over their previous education, as well as their subsequent course of life, with the most zealous care. The reforms which we desire would remove the evils without involving the total destruction of the establishment. Briefly, then, but not heedlessly, we proceed to notice some points in the actual constitution of the English Church, which our very remoteness from its sphere of action has enabled us perhaps to observe more calmly and to judge more impartially.

I. The Church of England is unpopular. It is connected with the Crown and the Aristocracy; but it is not regarded with affection by the mass of the people; — and this circumstance greatly lessens its utility, and has powerfully contributed to multiply the number of Dissenters. To this day it feels the effects of the peculiar conjuncture at which it was established. It was the child of the Civil Government, when that Government was a Despotism; and it learnt to echo the language and to copy the arbitrary proceedings of its patrons, till it shared with them the indignation of the people, and fell with them in one common overthrow. Thus the Church has never thoroughly harmonized with the popular part of our Constitution; and we have been often amused, by observing the soreness with which some English clergymen still speak of the House of Commons and its Committees — as if the terrors of the Long Parliament were still haunting their memories. This notorious spirit of Toryism would of itself tend to alienate the affections of the people from the clergy as a body; but



other causes have combined to aggravate the mischief. The system of Church patronage, for instance, while it makes many of the clergy directly dependent upon the rich and the great, makes all of them independent of popular favour; and their course of life keeps them somewhat remote from the contact of public opinion. Again, the rank which the English clergy hold in society is often prejudicial to their influence with the poor. Birth, habit, and education have identified them with the higher orders; they share their feelings, and enjoy their pleasures; and they sometimes are ignorant, from mere inexperience, of the language and manner which are most intelligible to the common people, and most readily find the way to their hearts. Hence has arisen the peculiar unpopularity of their style and manner of preaching. It trembles to offend a cultivated taste and a critical judgment:—it is generally, therefore, free from gross extravagances, but is, beyond all other preaching, tame and unimpressive to uneducated minds. The same character prevails in their writings;—their Tracts, intended for circulation amongst the poor, are mostly stiff, and have about them an air of lecturing and prosing, like that of a condescending superior, addressing readers almost of a different species from himself.

Other causes have their weight with the middling classes of society in indisposing them to the existing establishment. The great incomes and the pluralities enjoyed by the higher clergy cannot but appear excessive; the difficulty of procuring places of worship, and ministers of the Established Church, to meet the increased population of the country in large towns and in manufacturing districts, argues something deficient in its actual constitution: and wherever the blame *ought* most to fall, the general impression is unfavourable to the Church, from the feeling, that while it absorbs a large part of the revenue of the country, it does not sufficiently perform its work. The old laws against Conventicles, and the inflexible strictness with which the service of the Church is confined to the prescribed forms of the Liturgy, place its ministers also at a disadvantage, when opposed to the unfettered and flexible activity of the Dissenters. Whilst any other Christian teacher may address an audience wherever he can find one, and in the language which he may judge most appropriate to the occasion, a clergyman of the Establishment may preach only within the walls of his parish Church;—nay, he may not preach there, unless he choose also to read the morning or evening prayer at the same time;—a regulation which makes it impossible to open the Churches to any purpose in country parishes on any other day than Sunday. We are not now discussing the propriety or impropriety of these and similar regulations;—we are only asserting, that they tend to make the Church less popular than we wish it to be:—and when it is notorious, that no steps have been taken for the last two centuries to amend or improve its institutions, it is not unnatural that it should be taxed with indolence and indifference, and with thinking more of its dignity than of its duties.

II. Unpopularity, however, is not always a sure criterion of demerit;—but we have now to notice some things in the present state of the church, which are bad in themselves, independent of any effect which they may produce on public opinion. The Church of England is Exclusive; and has in many instances provoked the separations from



it, which it affects at once to lament and to condemn. This, in a national Church, is no light evil; inasmuch as it deprives a large portion of the people of the benefits of some most important public institutions; and, so far as the Government is the supporter of the Church, it makes a number of persons dissatisfied and discontented with the Government also. To be a public minister of religion must be an office sought after by some of the purest and best men in the country; — and it is to be lamented that any of this description should, without the clearest necessity, be forbidden to aspire to it. Nor can those who most admire the public schools and universities of England, represent it very consistently as no grievance to be excluded from all participation in their benefits.

But the Church of England has been apt to congratulate itself on its tolerant and liberal spirit, because it does not ask for the direct infliction of pains and penalties upon Dissenters, nor that they should be deprived of the liberty of forming distinct societies of their own. No doubt, this is liberality, when compared with the conduct of the Church in former times. It is a wonderful improvement on the persecutions of Parker and Whitgift, on the language of the Canons of 1603 \*, and the Synods of 1640. † It is certainly less odious in a Government to allow those who complain of its tyranny to emigrate peaceably, than to shut up every door against their escape, and then to subject them to fine, imprisonment, and death! But if we were to see nearly half the inhabitants of any country preferring a voluntary banishment to a longer abode in their native land, we should not be much inclined to hold up the Government of such a nation as a pattern of mildness and liberality. And here it seems to us, that the author of the ‘Letters’ has done the Civil power injustice, when he

\* We might quote, in Proof of this, every one of the 12 Canons of the very first chapter or division entitled ‘De Ecclesiâ Anglicanâ,’ all of which denounce excommunication, *ipso facto*, on persons maintaining the several opinions there condemned. And if we turn to the 65th Canon, we shall find that the Church earnestly desired to see its excommunications enforced by the Civil magistrate’s writ. ‘De excommunicato capiendo,’ by which the person of the offender was consigned to prison. It should be particularly observed, that the 5th Canon condemns to excommunication all those who should affirm that *any one* of the 39 Articles was, in *any part*, erroneous! Could the Pope himself have done more?

† These Synods were held at London and York, and consisted of the Bishops and Clergy of both provinces — of Canterbury and York. Their Canons are 17 in number, and subjoined to them is the Royal Assent fully approving and ratifying all their provisions. The third Canon is directed against Popery; and, amongst other things, it strictly enjoins that the children of Popish recusants shall be brought up by Church of England schoolmasters, in the doctrine of the Church of England, notwithstanding the prohibition of their parents: and if the parents should then take away the children from the school, their names should be given up to the Bishop of the diocese, who was to return them to the Judges at the Assizes, to be punished according to the Statutes. And the fifth Canon specially makes all the penalties and proceedings enacted against the Roman Catholics applicable to all Protestant Dissenters, or to any persons who should refuse or neglect to attend their parish churches for the space of a month, without some lawful impediment.

These detestable provisions are to be found in a collection of the Articles, Canons, Orders, &c. of the Church of England, published by Sparrow in 1671, with the object, as his title-page declares, ‘to vindicate the church of England.’



complains of its imposing a Liturgy and Articles upon the Church by its secular authority. On the contrary, the error of the Civil power in England has been to receive and sanction, much too passively, the Articles which the Clergy have tendered to its acceptance. When the House of Commons, in the reign of Elizabeth, delayed for some time to pass the Act to legalize the Articles of Religion submitted to them by the Bishops, Archbishop Parker expressed his displeasure at this hesitation — as if religion were a matter in which they had no right to exercise their own freedom of judgment. Nor can it be doubted that Parliament, at almost any period of our history since the Reformation, would have readily consented to any alterations in matters purely spiritual, which the Bishops and the great body of the Clergy might have recommended to be made. We repeat, therefore, that the needless multiplication of terms of conformity, which has caused so large a portion of the people to dissent from the Church of England, is principally, and almost entirely, the fault of the Clergy; and that the Civil Power is only to be blamed for sanctioning too negligently whatever they thought proper to frame.

But it is contended, that, in a National Church, *there must be* one uniform doctrine taught, and one form of worship universally enjoined. We are far from meaning to enter into a theological discussion, which would be most unfitted to these pages: but we may still observe, that the essential articles of Christianity are allowed on all hands to be few, and on these all denominations of Christians, with one exception, are agreed; that although some violent spirits might insist on enforcing their own peculiar opinions, even on points which they allowed to be of subordinate importance, yet that many would see the reasonableness of forbearing to *teach* such doctrines, so long as they were permitted freely to acknowledge their belief of them: that on matters of Church government, disputes have been mainly engendered by the intermixture of something not essentially connected with the question; as for example, the inveteracy of our forefathers against Episcopacy arose chiefly out of its connection with Prelacy; — because Bishops happened accidentally to be invested with great temporal power and splendour, and, instead of being chosen by other Bishops, with the consent of the clergy and people, were merely nominated by the Crown; and that thus Institutions, which in their corrupted state were rejected with abhorrence, might, when stript of these additions, be admitted without scruple. We should not hesitate also to say, that the fancied inconvenience of having the pulpits filled at different times with men of different opinions, is greatly overrated; that in point of fact *they are*, and ever must be so filled; — for no articles of religion can ever embrace all, or a hundredth part, of the topics which are discussed in public preaching; and that the Uniformity which subscription ensures is much less important than that discordance, which it cannot prevent, in the tone of mind, in the moral opinions, nay, in the very earnestness and seriousness of different ministers; so that the preaching of two men, both conscientiously subscribing to the same Confession of Faith, may lead their respective hearers to the most dissimilar views of religious duty; — that indecent and personal controversy in the pulpit may be restrained by the proper authorities; but that the mere expression of different opinions on unessential points can produce no evil, so long as it is known that one good man will yet unavoidably differ in many of his sentiments and views of things from

another, and that the agreement of men, so differing, in the main articles of Christian doctrine, is rather a satisfactory confirmation of *their* truth.

III. The Government and External Constitution of the Church of England are full of abuses, and bear divers marks of the mistaken notions and extreme misgovernment of the times in which they were formed, and of those which neglected to amend them. It may never have occurred to some of our readers, that the Greek word which we translate ‘Church,’ *Ἐκκλησία*, was the peculiar term used to denote the general assembly of the people in the old democracies; that it essentially expresses a ‘popularly-constituted meeting;’ and that such, in great measure, was the original constitution of the Christian society. We need not say with what different associations our English version of it is now connected; we need not ask what *popular* elements are left in a body in which the people have no voice at all, either by themselves or their representatives;—where the chief officers, the Bishops, are appointed by the Crown, and are accountable to no one but the Archbishops and the Crown for the manner in which they discharge their trust. Antiently, indeed, the two Houses of Convocation may appear to some to have formed an Ecclesiastical Parliament—to have been respectively the aristocratical and democratical branches of the Legislature of the Church. But the truth is, that these represented, not the Church, but the Clergy; and even in this character, the proportion which the deputies of the parochial clergy bore to those of the Chapters, and to the Archdeacons, and other such dignitaries, in the Lower House of Convocation, was about the same which the representatives of free boroughs in the House of Commons bear to those who are nominated by the influence of Government or of the Aristocracy. We are far, therefore, from regretting that the Convocation is become no better than a name; but, certainly, its virtual annihilation has left the mass of the members of the Church, both lay and clerical, without any means of expressing their sentiments as a body; and the Church now deserves as little to be called a Society, as the army or the navy. Its actual governors, the Bishops, appointed by the Crown, and out of all proportion too few for the extent and population of England, afford about as apt an image of primitive Episcopancy, as the Consuls under the Roman empire did of the Consular government of the old commonwealth. Nominated as they now are—assisted by no ecclesiastical council—accountable to no general assembly of the church, it were most dangerous to strengthen their powers, or even to wish that they should exert to the utmost those which they actually possess.

Then comes the system of Pluralities and of Dispensations,—the relics of the worst times of Popery, which the Protestant Church of England retains, even in the nineteenth century. One person may hold two benefices, if they are within forty miles of one another;—and the distance is always computed, not by the number of miles along the road, but as if the incumbent could fly with the crow, or ride on a steeple-hunt from one of his cures to the other;—to say nothing of the absurdity of fixing on such a distance as the maximum to be allowed by law; for if a minister can discharge his duties in a parish forty miles distant from him, he may just as easily fulfil them in one that is four hundred. Again, those persons who have taken degrees in Civil law, and the domestic chaplains of Noblemen, are



permitted to hold two benefices. In the one case, this indulgence was granted to encourage a study which the clergy in antient times always laboured to propagate; but now, amid the ignorance of the Civil law which prevails in England, and when the degree of Doctor of Laws does not necessarily imply an acquaintance with its simplest rudiments, its continuance is utterly ridiculous. In the other, it marks how little the Reformation in England was able to correct abuses patronized by the aristocracy; while the readiness with which the friends of the Church\* acquiesced in them, shows how greatly they wanted some of the most essential qualities in the character of perfect reformers. We notice the number of exempt jurisdictions or of particular parishes, and in some instances large districts, not subject to the authority of any Bishop, merely as examples of evident abuses, even according to Episcopal principles†, and as showing again how imperfectly the Reformation in England was effected.

We shall next mention the total want of any system of Education, peculiarly fitted for those who are to become ministers of the Church. It is not saying too much, to say, that the public schools at which boys in England commonly remain till sixteen or eighteen, do not so much as furnish the rudiments of a *clerical* education. The Universities, again, profess to know no distinctions between the future professions of those who solicit academical degrees — and they are quite right not to do so. They require of all who present themselves at their examinations, a certain portion of religious knowledge as Christians; but they do not pretend to say that this is a sufficient qualification for Christian *teachers*. The sole provision made at the Universities for the peculiar instruction of those who are designed for the Church consists in the Lectures of the Divinity Professors; a certificate of having attended which is, we believe, always required by the Bishops at the ordination of any person who has belonged to either University. It is with sincere pleasure that we bear testimony to the zealous and able exertions of the individual who now fills the Divinity Chair at Oxford; as, in addition to his public Lectures, he has formed a smaller class of students,

\* ‘For,’ says Hooker, while arguing in defence of the privileges granted to the chaplains of noblemen, ‘we are not to dream in this case of any platform *which bringeth equally high and low into parish churches*, nor of any constraint to maintain, at their own charge, those sufficient for that purpose; *the one so repugnant to the Majesty and Greatness of English Nobility*; the other so improbable and unlikely to take effect, that they which mention either or both seem not indeed to have conceived what either is.’—*Ecclesiastical Polity*, book v. § 81.

The eloquence of Hooker has been deservedly praised; but the justice of the epithet ‘Judicious,’ which his admirers have attached to his name, is rather more questionable. Certainly there never was a more thoroughgoing advocate of things established, than he has shown himself in the whole Fifth Book, forming more than a third part of the entire *Ecclesiastical Polity*.

† Most of these, we suspect, were mere *jobs* from their very origin. There is still extant a Correspondence between Richard the Third, the Pope, and the Archbishop of York, relative to the erection of Middleham in Yorkshire into a deanery, with a peculiar jurisdiction, independent of the Diocesan. Richard, when Duke of Gloucester, had resided for some time at his castle of Middleham; and, contracting a fondness for the place, he took this method of showing it; and the Pope and the Archbishop, as might be expected from the lax principles of the church in those days, seem to have made no difficulty in consenting to gratify him.



who attend him voluntarily, and whom he examines as to their proficiency in such books as he has before recommended to their perusal. This is a practice worthy of the spirit and good sense of him who has first introduced it; but be it observed, that this only benefits the few. Attendance on these Lectures is entirely voluntary; and we do not want the means of furnishing instruction for those who desire it, but of ensuring an adequate amount of knowledge in that far larger class, who will gain of their own accord the smallest quantity that will be tolerated.

In other professions, interest affords a sufficient stimulus to industry; and besides, a young man intended for the law, or for the study of medicine, has, in fact, a distinct professional education to go through after leaving the University; whereas a young man intended for the Church, and quitting College, as is commonly the case, at two-and-twenty, too often considers his education as completed, and employs the intervening year, before he is old enough to take orders, in travelling on the Continent, or in refreshing himself in some way or other, after the fatigues of his academical studies. All that he must necessarily do, is to prepare himself for his examination by the Bishop's chaplain, previous to his ordination; and if he is idle, and conscious of his own ignorance, he tries to be ordained in a diocese where the chaplain has the reputation of not being over strict, and where he may pass the ordeal with little danger. For, the legal standard of the qualifications required in a candidate for orders being fitted only to the general ignorance of the Elizabethan age, every examining chaplain is obliged to fix a standard of his own; and thus a candidate, whom one Bishop might dismiss as utterly incompetent, may be ordained without difficulty by another. In other professions also, a man's gradual advancement is somewhat dependent on his continued exertions; he cannot at least safely afford to remain stationary, far less to go backward, in knowledge, after he has once commenced his career. But when a clergyman is once ordained priest, his qualifications are subjected to no further trial; all is then left to his own sense of duty; and it often happens, with careless and unprincipled individuals, that they are worse divines at forty than they were at four-and-twenty. In such cases as these, the effect, we will not say of having been educated, but of having passed a certain portion of time at the Universities, is nothing but evil. Habits of dissipation and self-indulgence are acquired, and those aristocratical feelings which, in weak and vicious minds, are merely odious, are strongly confirmed. Thus, some of the English clergy are, above all other Christian ministers, unfit for their station. Without being superior to the humblest dissenting teachers in secular learning, they are incomparably inferior to them in that familiarity with the Scriptures, for the absence of which, in a minister of the gospel, not the greatest learning could compensate. But this is the universal characteristic of the English system of education, that while it produces some individuals of the rarest excellence, its failure in unfavourable cases is most complete.

Such, then, are the principal points in the actual state of the Church of England which seems to us to demand the attention and the reforming hand of the national Legislature. No other power can undertake so great a work; and to no other, in our opinion, should it ever be intrusted. For, what though the State has, on some occasions, as the author of the 'Letters' justly remarks, abused its sovereign autho-



rity, and by the appointment of State fasts and festivals has really done an injury to the character of the Church, yet the words of Burke are here most applicable, that ‘it is not so much by the assumption of ‘unlawful powers, as by the unwise and unwarrantable use of those ‘which are most legal, that governments oppose their true end and ‘object—for there is such a thing as tyranny as well as usurpation.’—‘So that after all, it is a moral and virtuous discretion, and not any ‘abstract theory of right, which keeps governments faithful to their ‘ends.’\* It is the exercise of this ‘moral and virtuous discretion,’ to which we look forward with hope for the purification of the Church of England from all those spots and stains which the State, for its own purposes, has thrown upon it, no less than from those which had their origin in its own negligence or ignorance. And, in our judgment, the true friends to the Church should join their exertions to procure, not its emancipation from the State, but its reform by the State; as the first would involve its certain destruction as a national institution; while from the other, both in this character, and as a spiritual society, it would derive at once purity and energy.

If, in any part of our preceding strictures, we may seem to have spoken too strongly, let the peculiar circumstances of the case plead our apology. The Government has been so long accustomed to regard the Church establishment as a thing not to be touched, that nothing will ever arouse them from this apathy but the strongest representation of the evils which they are neglecting to remove. On the other hand, we have endeavoured to treat the subject seriously and calmly, not only from our own sense of its importance, but to convince, if possible, the advocates of existing abuses, that those who wish their removal are not all the enemies of religion or of religious establishments,—that they are neither fanatical enthusiasts, nor infidels, nor jacobins, nor hold any principles inconsistent with the sincerest attachment to the main doctrines of Christianity, as held by the Church of England itself. We are not now called upon to state the particular nature and precise extent of the reforms which we deem desirable; our opinions, indeed, on this point, may be partly gathered from the list of evils which we have given; but the main object at present to be accomplished, is to draw the public attention to the state of the Church, and to show to every man’s understanding that it ought not to be left as it is. Above all, we wish to dispel that cloud of prejudice which, on this question, besets the minds of so large a portion, not of the clergy only, but of the gentlemen of England,—to expose some of those parrot-like phrases, which, to the disgrace of human reason, so often bind men’s minds with a secret and sovereign charm. Such are the expressions which we so often hear of the ‘Constitution in Church ‘and State,’ of ‘its venerable Establishment,’ of its ‘heroic Martyrs,’ its ‘pious and learned Reformers,’ and of ‘the mild and tolerant spirit ‘of its Doctrines and its Ministers.’ We call these parrot-like phrases, because, as they are commonly used, they are all either untrue or irrelevant. ‘The Constitution in Church and State!’ Why it is like the feet of the image in Nebuchadnezzar’s dream, which were made part of iron, and part of miry clay;—the State strong and sound, gradually perfected by the care of successive generations, carefully

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\* Speech on the Unitarian Petition, Works, vol. x. 8vo. edit.

watched, and continually repaired;—the Church patched up in a hurry three hundred years ago, out of elements confessedly corrupted, and ever since allowed to subsist, unlooked to and unmended, as if, like the water of the Thames, it would grow pure by the mere lapse of time. We would ask, who would wish to live under our Political Government, such as it was when our Church Government was established? And if the former has required, since that time, a series of improvements, can we believe that the experience and added light of three hundred years could now add nothing to the perfect excellence of the latter? ‘The venerable Establishment!’ We would ask, whether the venerable Cathedral Churches of that establishment have sustained injury from the cleaning, repairing, and removing of deformities, to which the taste and liberality of so many of our Deans and Chapters have been of late years so happily directed? or whether the ornaments added in the reigns of Elizabeth and James the First were all so pure and so judicious, that it would have been barbarism and folly to meddle with them? The Church of England *has* no doubt had its ‘heroic martyrs;’ but so has the Church of Rome; and so have all Christian communions: and besides, is it not a little preposterous to invoke the names of those who died in the cause of reformation, in aid of an argument that their example of reform should never be followed again? It has had too ‘its pious and learned Reformers,’ and we wish that it would produce some more—equal in piety, and superior in judgment and enlightened views, to those of the sixteenth century.

A real knowledge of those times—not such a mere heap of prejudices as so many pick up from Izaak Walton, and other such sources—would enable us to appreciate their excellences and their defects; would show us that we may admire them far more safely than imitate them; that though no period has produced a greater display of ability, yet that our additional experience of two hundred and fifty years gives us the same superiority of judgment over them, that many an ordinary schoolmaster possesses over a very clever boy, who, if he were as old as his master, would in all points surpass *him*. Such a knowledge, too, would enable us justly to appreciate the panegyrics which have been passed on the ‘mild and tolerant spirit’ of the Church of England; it would tell us of the continued persecutions which disgraced the reign of Elizabeth, and of those which added an additional brand of infamy to that dark period between the Restoration and the Revolution; it would show us, above all, that in the sixteenth century a comprehensive spirit of Christian charity was unknown to all parties, and that the judgment even of the best men of that age, as to the number and nature of the points to be insisted on as terms of communion, is of very little value.

Thus, when the merits of the Church of England are reduced to their just proportions, and no longer magnified to our eyes by the mists of our own ignorance, the faults of its institutions will appear in their true colours, and we shall wonder by what strange infatuation they can have been so long mistaken for excellences. Then it will be time to discuss more particularly the exact nature of the reforms best adapted to the state of the case;—with what limitations the two grand principles of rendering the constitution of the Church more popular and more effective, and of making its terms of communion more comprehensive, should be followed up in practice. So slowly does truth force



its way in opposition to existing prejudices and interests, that we dare not indulge the hope of seeing such a reform accomplished in our days. Yet a little impulse is sometimes sufficient to set in motion the stream of public opinion, which, gathering force year after year, from continual accessions of experience and reflection, swells at last into an irresistible current, and sweeps away the stubbornest mud-banks of corruption and error.\*

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## LIBERTY OF THE PRESS.

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### ABUSES OF THE PRESS—LAW OF LIBEL. †

THE great subject which we are now about to discuss presents so many difficulties to the view, that we frankly acknowledge the boldness of the task we have undertaken. The works of former writers afford but slender assistance, consisting generally of vague declamation or sweeping theory, in which the grand object of practical utility has been lost sight of. The labours of legislators have been still more defective, varying only between the opposite and almost equally pernicious extremes of strict prohibition and unrestrained license; nor has any attempt been made, as far as we know, even in the codes fashioned by speculative men for new communities, to reconcile the two great objects of protecting free discussion, and checking attacks upon character. But the chief obstacle to the successful conduct of the inquiry, arises out of the important modifications which the letter of the law, touching the press, has always received in practice, partly from the influence of other laws, but chiefly from the habits and feelings of the community;—insomuch that there is hardly any one subject to which a lawgiver can turn his mind, where he will find himself so frequently stopt by the necessity of referring to practice for the correction of deductions, apparently the most simple, from admitted principles; and he will even find instances, where, contrary to every preconceived notion, beneficial effects prove not inconsistent with an order of things apparently the most vicious, and founded in a plain departure from the most acknowledged principles of practice. Add to these things, the inauspicious influence of party feelings upon a question which is wont to excite their utmost violence, and to place the passions of the multitude, and the prejudices of the ignorant, and the interests of the powerful, in the most acrimonious conflict. To

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\* The subject of Church Reform is at the present crisis of peculiar importance. It has invariably found in the *Edinburgh Review* a firm, zealous, but temperate advocate. However well-timed its past efforts may have been, more benefit may be derived from its future services, particularly at this critical juncture, when public attention is powerfully attracted to the abuses of the Church Establishment, and measures for their mitigation or removal will be speedily forced upon the attention of the present enlightened ministry. In addition to the articles I have selected, the reader may consult Vol. xxxvii. pp. 350. 433.

† The Law of Libel, in which is contained a General History of this Law in the Antient Codes, and of its Introduction and successive Alterations in the Law of England: comprehending a Digest of all the leading Cases upon Libels, from the earliest to the present Time. By Francis Ludlow Holt, Esq. of the Middle Temple, Barrister-at-Law.—Vol. xxvii. p. 102. September, 1816.

attempt the calm and dispassionate investigation of a question beset with so many difficulties would be extremely unwise, were its paramount importance not a sufficient inducement to overlook every obstacle.

We shall, however, be told, that the press is in no danger, at least in England; that the discussion is unnecessary; that whatever defects may appear to exist in the system of our laws with regard to it, there are none in practice sufficient to require any material change; and that, at all events, there is nothing urgent in the question, so as to require it being pressed upon our attention peculiarly at the present moment. We purpose to begin by showing how extremely ill-founded the two former observations are; and with regard to the others, our whole inquiries will have a strict reference to practical evils; and we only desire the attention of the public to them, and its favour to their results, in so far as they proceed upon plain matters of fact, of daily and familiar occurrence. With respect to the time, we certainly choose it purposely; for it is at this moment the topic to which the regards of legislators and politicians in every part of Europe are most eagerly and anxiously directed. The slavery which is almost everywhere sought to be re-established, by the admirers of the dark ages, rests its sole hope upon the destruction of the press; while the only chance of placing the general tranquillity upon a sure basis, is sought by enlightened men, all over the world, in a judicious extension of its freedom. The problem, then, which they are seeking to solve, is the one which we are about to investigate, namely, to find the quantity of liberty, and the species of restraint, which will secure to the press the greatest amount of free discussion, consistent with the tranquillity of the community, and the safety of private character. Besides, the very circumstance of there being so few state trials connected with the subject for the last two or three years, even if it proved that no attacks were now likely to be made upon the press, would form an additional inducement to undertake the inquiry at the present time; for all great questions of jurisprudence, and especially of constitutional law, are most advantageously examined at a distance from the actual commission of the offences, or the exercise or the abuse of the powers, to which they relate. We shall begin by stating precisely the most material provisions of the law of England, as now carried into practice, upon the subject of *Discussion*,—under which term may be comprehended every thing that can give rise in its abuse to any of the offences known by the name of *Libel*—that is, written defamation, whether against the State or against individuals; or of seditious words, and slander—that is, spoken defamation against the State and against individuals.

The offence of *Libel* is as well known as any other in the law; and those persons either show much ignorance, or are guilty of extreme bad faith, who would mislead the multitude into a belief that the word is a novelty, without any known legal meaning, because it signifies, originally and in its etymology, *a little book*. It means, indeed, no such thing, and never did; for it comes not from *Libellus*, but from *Libellus famosus*, that is, a defamatory writing; and from hence has been derived libel, by one of those ellipses so frequent in all technical language. It would be just as reasonable to say, that robbery was no crime, or a modern invention, because it meant originally a 'taking;' or that there was no such thing as tyranny, because tyrant once meant king. Whether the offence in question be well defined in the law



is another matter, and of which we are soon to speak : we only contend at present, that they who refer to its etymon, give no sort of proof that the offence is unknown to the law of England.

According to that law, the offence consists in publishing a written, or printed, or painted composition, tending to disturb the public peace, by vilifying the Government, or otherwise exciting the subject to revolt, which may be termed a public libel ; or by traducing private character, which is commonly termed a private libel ;—but both offences are of the same nature in the eye of law, and are punishable upon the same grounds,—namely, their tendency to a breach of the peace.—Such, at least, is the strict theory of the law ; though we shall in the sequel find, that this principle is, like many others, upheld, and cited as inflexible, when it is of any use in the argument against improving our jurisprudence, while it is in practice constantly departed from ; as, indeed, the maintenance of it would produce the most absurd consequences.

Libel, of whatever kind, then, is punishable as a misdemeanour, by fine and imprisonment. It used to be punishable also with the pillory, until Mr. Taylor's bill most wisely and happily abolished that punishment, except in the case of perjury ; and instances are not wanting, of the courts showing such judgment in the infliction of it, that the criminal, instead of enduring obloquy or derision, stood triumphant amidst the universal plaudits of the multitude. Still the amount of fine or imprisonment is wholly in the discretion of the court. Before the Revolution, there were instances of ten years' imprisonment. During the last half century, public libellers have been sentenced to one year, eighteen months, and two years' confinement, in such prisons as the court thought proper to appoint ; for the law allows the Judges to transport him from Northumberland to Cornwall.

The libeller may be put upon his trial, either by information *ex officio*, which the Crown Lawyers have a right to file of their own mere motion, and upon filing which, they may imprison or hold to bail, (by virtue of a recent statute — 48 Geo. III.—one of those *innovations* which the lovers of antient institutions never object to,)—or by criminal information obtained upon an application to the court, and after hearing both sides,—or by indictment in the ordinary way. In modern practice, public libels are almost always proceeded against by the first mode ; libels against men acting in a public capacity, or tending to produce a duel, by the second mode ; and libels against private individuals by the third mode. When an *ex officio* information is filed, no oath is required ; the Crown officer merely informs the Court, that the defendant has published a certain libel ; and this puts him upon his trial, which he has, however, no means of forcing on ; the Crown Officer may hang the prosecution over his head for years ; and having done so, he may at any moment bring it to trial. Whether the defendant is convicted, or acquitted, or never tried at all, he has to pay the costs himself ; it being one of the maxims most revered in our law, that the Crown neither receives nor pays costs,—a maxim, too, which we shall presently find deviated from in some instances, and strained in others beyond all resemblance to its original signification. Moreover, in all trials of this description, the Crown has another privilege, by no means unimportant, that of being always heard a second time in reply to whatever may be urged for the defendant.

In whichever of these three ways the proceedings are commenced,

two points must be made apparent to the Jury before the defendant can be lawfully convicted,—the act of publishing the libel,—and the malice of that act. The first is matter of evidence; the second is frequently shown by the nature of the writing merely; but it is often also proved by certain facts connected with the writing. In every case, however, it is considered as a matter of fact also, and within the peculiar province of the Jury,—the Judge having only the right to give his opinion upon this, as he may upon every other question of fact. Formerly, the law was otherwise; and it was held by all the Judges, that the publication being proved, the malice was to be gathered from the tenor and tendency of the writing, not by the Jury, but by the Judge; in other words, that, in this offence alone, the motive—the *malus animus*—the *guilt* of the defendant, is a question of law, and not of fact; and that if he is charged with publishing a libel, the prosecutor has only to prove that he published something, whether libellous or not. At length, this was declared by the Legislature not to be the law\*, or rather the law was altered, and rendered consistent with common sense in this important particular.

If, then, the publication is proved, the only question for the Jury is the guilt or innocence of the act; that is, the guilt or the purity of the motives which led to it. But how clear soever this may be, the law takes a very extraordinary mode of enabling the Jury to conduct the inquiry. It allows no question whatever to be made of the truth or falsehood of the matters contained in the writing alleged to be libellous. If the defendant has published, that a gross abuse exists in the management of public affairs, that a minister has been guilty of corruption in his office, or that a private individual has committed a particular crime, the law says, that the Jury must pronounce upon the malice or the purity of his assertions, without being informed whether they are wholly true or utterly false; and no proof is allowed to be adduced in elucidation of this point. In somewhat of the same spirit, if the publication was made by the servant generally employed in managing the defendant's business, he is not suffered to prove his entire ignorance of the act, but is held responsible for the criminal conduct of the agent, though he never authorized the proceeding; nay, though he was beyond seas when the writing was composed, and never heard of its contents until the day of his accusation. The general agency of the servant is not taken as evidence of his having a special authority in the particular case: though this would be going a step further than the legal presumption does in any other crime; but it is taken as a presumption, not to be rebutted by any contrary evidence: it is conclusive in itself against the defendant, and fixes him criminally with the act of the servant.

When the defendant is convicted, the court considers of his punishment; and there is some doubt how far, in this stage of the proceedings, the parties have a right to introduce the question of the truth or falsehood of the libellous composition. That the question cannot now be regularly gone into by the examination of witnesses, and other judicial means of inquiry, is certain; but it is also doubted, whether the affidavits in aggravation and in mitigation of punishment can properly assert or deny the truth of the libellous matter. There are conflicting

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\* 32 Geo. III.



*dicta* upon the point, and even decisions ; for, in the case of *the King v. Draper*, it was permitted ; in that of *the King v. Finnerty*, it was forbidden. Perhaps the real intention of the law is, that the matter may be submitted to the court, upon the oaths of the parties, but not made the subject of a regular investigation. Thus much is evident, that to exclude altogether the consideration of the truth in this stage of the proceedings would be the grossest injustice that can be conceived,—while, to allow a complete examination of it would be inconsistent with the principle of excluding it in the former stages of the trial.

Hitherto, we have only spoken of libel, or written defamation. The criminal law of England allows no prosecution for spoken slander, unless it be seditious ; and then the same rules apply to it as to libel. We are now to consider the civil remedy which the law gives for injury to private character ; and this is the same in all cases, whether the injury be by words or by writing. The party whose character is defamed may bring his action, and the defendant may answer it, by alleging that what he spoke or wrote was true. This plea of justification throws the proof of the truth upon the defendant, and precludes all other considerations whatsoever ; so that the plaintiff can recover no damages, however severe the injury he has sustained, and however inexcusable the defamation may have been, if the defendant can only show that what he uttered was true. There is no longer any question of libel or slander ; nor any question whether the defendant had a right to publish the truths he has spied out, or betrayed, and proclaimed to the world. Provided they be truths, the law says he had a right to publish them—at least the plaintiff has no right to compensation. If they were written, he might indeed indict and bring the libeller to punishment ; if they were spoken, he cannot punish him at all ; and in neither case can he recover damages. We must add, however, that by slander or spoken defamation, the law all along understands not any charge ruinous to a man's good name ; but only a charge which imputes to him some indictable offence. If by words spoken, his reputation be injured, how gravely soever, without the imputation of a crime technically the subject of indictment, the traducer can neither be punished, nor made to pay damages, be the slander as false as possible, by any proceeding known in the English law ;—and this is the second great distinction, taken in that system, between written and spoken calumny. The former is punishable—the latter not ; the former is both punishable and actionable, if it tends *in any way* to injure character ; the latter, be its tendency ever so fatal to character, is neither punishable nor actionable, unless it imputes such a breach of municipal law as is cognizable by the penal code of that law.

We have now gone through the only material parts of English jurisprudence respecting the subject of the present inquiry. One charge which has been urged against the system, we are inclined to dismiss at once, as founded in an extremely superficial view of the matter. It has been stated as a great defect, that there is no law defining a libel, or expounding what shall be considered libellous. In no code, either formed by successive acts of legislation, or composed at once by speculative lawgivers, was ever such a definition attempted. The attempt would, in truth, be vain. The nature of the thing precludes all minute definition ; and a general description is useless for the end in view. They who have called for such a law have been misled by the



analogy of the law defining treasons \*; but there the great object was to exclude a variety of fancied crimes which the arbitrary caprice of successive kings had raised to the degree of treasons: and certainly the law in question was much more successful in its exclusion than in its positive definition; for it has left one class of treasons most obscurely defined, and has given so erroneous a description of the principal class, that the intent alone is stated, and the act wholly omitted.† It has, no doubt, been a very common practice to proceed against writings as libellous, which were not so: but how could any limitation be devised which should prevent such proceedings in future? There are not two or three marked kinds of libel exceeding all the others in frequency and importance, which could be singled out and made exclusively the objects of penal sanction, as was done in the case of treasons; besides that such a law supposes the question of libellous, or not, to be once more taken from the Jury and transferred to the Judges,—a most dangerous change, unless the descriptions were so plain that no doubt could ever arise in the application to particular cases. The call for a Libel Law, after the manner of the Treason Law, is therefore unworthy of attention. Means may be found of limiting the sense of the word in practice as effectually as is desirable, and preventing the prosecution of ‘*any thing that at any time displeases any body,*’ as the modern practice has been alleged to have described the offence. If such a remedy can be devised, it is obviously of no importance in what branch of the penal code it is placed. The danger arising from the working of the engine may be as effectually prevented by providing checks to the action of its parts, as by altering their construction; and it may happen that the alteration would be either detrimental or impossible, while the check may be safely and easily applied.

From the view already given of the Libel Law of England, several deductions may be drawn; and to these we now beg the reader’s best attention, as they involve the fundamental points of the argument for a change of that law. We shall begin with that which is by far the most important — the exclusion of evidence as to the truth of the libellous matter, in all prosecutions for this offence.

It is manifest, that a statement, either against the Government, or an individual, may be libellous; or, to use a phrase which no one can object to, may be criminal, although founded in truth. Undoubted facts may be involved in furious or inflammatory invective. Some cases may be conceived (though they are exceedingly rare) in which a simple statement of facts respecting the government would be an offence against the public tranquillity; but innumerable cases may be put, in which the publication of the truth, without any comment, would be an offence against private individuals. Things disclosed in confidence, or discovered by corruption, and things concealed from motives of prudence or humanity, may be maliciously promulgated, to the infinite injury or utter ruin of innocent persons. It is not therefore to be maintained, that the law would be erroneous if it merely enacted that truth *might* be a libel; and only refused to all men the unbounded license of

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\* 25 Ed. III.

† Thus, it is in truth no treason by the statute to murder the king, but only to compass his death:—and accordingly the regicides were indicted for this compassing—the murder itself being laid as the overt act.



publishing whatever is true. But it goes a great deal farther; it says, not that the truth of the statement shall be no justification in itself, but that the truth or falsehood is in all cases wholly immaterial to the question of malicious or innocent intention; that it shall be entirely excluded from the consideration of the Jury, who must proceed to pronounce upon the motives of the publisher, and, generally, upon the guilt or purity of the act of publication, without once inquiring whether the thing published be strictly true or utterly false. Now, instead of the truth of the statement being in every instance foreign to the question of guilt, which the law presumes it to be, the cases are extremely few, if indeed there be any at all, in which the question of guilty or not guilty is not materially connected with the question of true or false, always supposing the composition to bear reference to a matter of fact. Thus it is impossible to put a case in which the falsehood of a statement, injurious in its nature, whether to Government or individuals, would not at once be decisive of a malicious intent. If so, the Jury, when called upon to pronounce upon a publication, without any evidence either of its truth or falsehood, are placed in a very extraordinary predicament. One means of investigation, which *might* be decisive, is withdrawn from them; that which might be a criterion, and preclude all further inquiry, they must not resort to; they must not use an instrument which at least *might* show them the way.

But it is said, that though this instrument, by pointing in one direction, would end all doubt, yet, if it does not so point, it decides nothing; that the question, 'true or false,' answered one way, might be decisive, but, answered the other way, would leave the inquiry where it began. For the present we will admit this; and still we contend, that it is no reason against examining the question, 'true or false;' because, by examining that question, even if the result is not decisive, the Jury at least assures itself, that one decisive proof of guilt is wanting; while there is always a possibility (which nothing but the actual inquiry can destroy) that the result of the examination may be decisive. And it is unquestionable, that all human investigations are carried on by the use of such methods as this; methods which are seldom so complete as in every instance to give a certain and immediate result, but more frequently afford the chance of an immediate result; that is to say, give the result, if it lies in one direction, and if not, leave us to pursue the inquiry by other means — only that the trial has shown us in what quarter we are *not* to seek it. All investigations of a scientific nature, without exception, are conducted in this manner, — from the common rules of arithmetic, up to the most abstruse problems of modern analysis. Thus, if we wish to know what proportion two quantities bear to each other, or to what class a figure belongs, we often consider what would be the consequence, if the quantities be equal, or if the figure belong to a particular species: if we find that this consequence holds true in the case before us, the question is solved; if not, we must try some other proportion, or some other species. So, when a chemist would ascertain the nature of a substance, he uses a test, which, if a certain matter be present, will show it; but if that matter is not present, the test cannot tell him what really is there. Yet he would hold any one very cheap who should say the test was useless, and that he wasted his time in applying it, because, in the possible event of the matter not being present, he cannot from that test learn what is present. It is exactly in this manner that the question of 'true and false' may be termed a test of libel; if the answer

is 'false,' the test has proved decisive, and shown that libel exists in the composition; if the answer is 'true,' there still may be libel, but we must find it by other means. The test would certainly be more complete, if either result, either answer, were conclusive; if 'false' showed that there was libel, and 'true' that there was none; but its not being perfect, is no reason for rejecting it altogether.

Again, according to the principle of the law, that the truth is wholly immaterial, the prosecutor ought, in every instance, to begin by admitting it. If he were bound to do so, there would be more consistency in the doctrine. When a party demurs in law, he admits the fact; he says, 'Be it so, the statement is true, but the inference is 'denied;' and this throws the argument upon the legitimacy of the inference. If the truth is always immaterial, as we are told, why is not the prosecutor obliged, in every case, to say, 'The truth of this statement is undeniable, but it was criminal to publish it.' This would leave the inquiry to be prosecuted by other criteria. But, as the law now stands, the prosecutor either says the statement is false, or he says nothing about the matter; and, in either case, even when he asserts it to be false, the jury must go blindly to the inquiry, without any information whether it be true or false in reality. In plain terms, the prosecutor takes his chance of their believing it to be false, without any proof; and is content to allege its falsehood, and not prove it, or even to abstain from the assertion, provided he may neither admit its truth, nor give the accused an opportunity of proving it; well knowing, that, if proved, it must needs make some impression upon the minds of those who are inquiring into the guilt or innocence of the publication.

We are willing to rest the argument here; but it is by no means necessary. On the contrary, it is fit that we now ask whether the cases are not numerous in which the truth of the statement goes very far to prove its innocence? Whether they are not in sufficient number and importance to make the exclusion of that consideration highly unjust, even upon the supposition that there may be many cases where the truth is no evidence at all of innocence? There can hardly be imagined one case, however, in which the proof of the facts being strictly true would not operate in a certain degree favourably to the innocence of the publication. Its effect might often be small, but hardly ever would it be wholly insignificant. At least, the cases are so very rare, that nothing can equal the absurdity of laying down a general and inflexible rule, upon the view of these cases alone. There might be some sense and consistency in saying, that, generally speaking, the inquiry should be gone into; but that, as it may happen to be immaterial in a few instances, in those it should be shut out. But the law says no such thing. It excludes the inquiry in every case, because, in one or two that may be put, it would be nugatory. And what is gained to the few by this injustice done to the many? Absolutely nothing. The utmost that can be said is, that a little time or trouble is possibly saved. It would be a better reason for doing injustice in ninety-nine cases, that you thereby avoided doing it in the hundredth case. No man indeed ever thought of proceeding upon such a principle. But the law in question does a much more rank injustice; it does injustice in ninety-nine cases, to save a little time or trouble in the hundredth. The very worst that can be said of the inquiry into the truth or falsehood of the statement prosecuted, is, that it may sometimes be wholly superfluous. Let us, however, ask, whether there is,



in the law, any other instance of strictness in excluding evidence at all similar to the case before us? The principle upon which the question 'true or false' is excluded, is this; that no evidence must be admitted which is not conclusive; and we will venture to assert, that any thing more unlike the principles of judicial inquiry, in all other cases, could not well be imagined. Every case of circumstantial evidence, for example, is of necessity made up of parts, each of which, taken singly, would be insignificant, or nearly so. Each piece of evidence, therefore, is of such a nature that it may be quite indubitable; and yet the person against whom it is adduced may be not guilty; and yet that, if the evidence pointed the other way, he *must* be innocent. Thus, it is shown that he was near the spot at the time the offence was committed. If the evidence was, that he had been far from the spot, the question would be decided in his favour; but it does not follow that he is guilty, because he was near the spot: yet as this is a circumstance pointing in the direction of guilt, it is most properly allowed to be proved on the one side, and disproved on the other. So in civil cases. How many little circumstances are allowed to be inquired into in questions of pedigree, each of which may be proved with hardly any material advancement of the case, and disproved without the very slightest detriment to it! — conversations in the family — old notes in family bibles — similar names upon tombstones, and a variety of others. How slowly does the case proceed in questions of boundary, where evidence is allowed — indeed it is almost all that can be relied upon — of antient acts of ownership, each act proving hardly any thing! That the claimant's ancestor had a beast for some little time upon the disputed ground, and was not interrupted, is good evidence; if he had kept it there in spite of interruption, it would have been better; and still more satisfactory, if he had interrupted successfully the ancestor of the adverse party. But the law does not reject even the lowest and most equivocal of these proofs, merely because it slightly aids the inquiry, and because it is much less decisive than others would have been. Its principle is, to seek for the best evidence, and to be satisfied with the best that can be had. Why should not the same principle be applied to the case before us? Why not say to the defendant, You may prove that all you have published is quite true, and still you may be guilty: nevertheless, as the proof may help you a little, — as it is a step, though a small one, towards your acquittal, it is open to you. If you fail in proving it, you are proved guilty: if you succeed, it remains to be seen whether you can complete the demonstration of your innocence, or whether other means of showing your guilt do not remain?

It may be useful to consider more nearly the cases similar to the one in question, where the law proceeds upon the principle recommended. We shall find that they come nearer, than any assignable distance.

If a person is prosecuted for an assault, he is allowed to give in evidence, not only that he committed it in self-defence, but that he did it upon provocation; and he may prove all the particulars of the provocation. Observe, that no provocation justifies an assault in the eye of the law. And accordingly, even in a civil action, nothing can be *pleaded* short of an actual assault by the party complaining, though, here too, circumstances of provocation may always be given in evidence; but in the criminal proceeding, where the merits of the prosecutor enter for nothing into the question, those circumstances are

allowed to be proved, as throwing light upon the *animus*, the malice, which is the main question for the Jury. General evidence of good character is in all criminal cases allowed, upon the presumption that the probability of guilt, in the particular instance, is lessened by such proof; and it is allowed, even after the most precise evidence of guilt in that instance has been tendered, and although nothing more specific is offered to rebut it. Even under such circumstances, the law does not reject this most slender presumption, or forbid the defendant from availing himself of it, although it would be difficult to descry in what minute degree his case is bettered by it. In like manner, it is permitted to show, generally, that, in the opinion of witnesses knowing the defendant, he was not a person likely to have committed the offence. There are even instances where more detailed evidence of this description has been admitted. In Lord Russell's trial, Dr. Tillotson was examined to prove that his habits were moral and religious; because it was less likely that a man of this cast should have committed treason. Mr. Horne Tooke was allowed, in 1794, to give in evidence a tract published by him, twelve years before, upon Parliamentary Reform, in which there were some loyal expressions; upon this ground, that the charge now brought against him was, the having made parliamentary reform a cloak for treasonable designs.

These instances carry us a good way towards our conclusion; but the law respecting libel itself brings us still nearer: for it appears that in that law evidence is every thing in any way connected with the act, except only the truth or falsehood of its statements! If an inflammatory passage is selected for prosecution, and read in proof, the most inviolable rules of evidence require that the defendant may call for, or give in proof, any other passage of the same composition. The reason given for this, is, that the passages kept back may explain away those put forward; and so they may; and so they probably will, in a number of instances sufficient to justify the adoption of the rule. Nevertheless, it might be contended, that, in some instances, the passage adduced is so manifestly criminal, that no part of the context could explain it away. For instance, suppose an elaborate and powerful exhortation to rebellion in one part of a work; and in another part an admonition to loyalty, accompanied with an averment that the inflammatory passage was not the author's opinion. We cannot imagine any one passage more completely bearing upon and counteracting another; and yet clearly the production of the second leaves the publication of the first still criminal; it goes as little towards the proof of innocence as the truth can be said to go in the most extreme case that we can put. Nevertheless, the law says, that both passages shall be read; first, because how minute soever the light thrown by the second upon the first, still not a glimmering shall be excluded; secondly, because, unless the defendant had the power to bring it forward, the Jury never could know whether the first passage was modified or explained at all, or in what way it was modified; thirdly, and chiefly, because the rules of law should be general, and proceed upon the bulk of instances, and not upon the exceptions or extreme cases, — the more especially, when the only harm that is done in those instances is (as in the case of allowing the truth to be proved) the admission of evidence, which may be useless, but can never do any mischief.

If, however, it should be still contended, that this rule of evidence



only provides for the entire production of a composition, part of which is made the subject of prosecution, there are other cases in which extrinsic circumstances are allowed to be proved, though they only help the inquiry into the guilt of the publication, and by no means decide the question either way. The defendant, for instance, is allowed to show, that the publication was in answer to an attack upon himself; although this is no justification in a civil action, nor of itself a defence to the prosecution; but it throws light upon the *intention*, and tends to disprove that *animus injuriandi* — that *mens rea*, without which the law holds no man guilty. In like manner, if the libel was published in the prosecution of the defendant's lawful private affairs, he may give this in evidence. Thus, he may show that it was written in answer to a letter asking the character of the prosecutor as a servant. Yet no one can deny, that a gross libel might be published in this shape. As this case has been actually decided, we may observe how impossible it is to maintain it for law, and yet refuse evidence of the truth or falsehood of the alleged libel; for, suppose the defendant proves that he gave the prosecutor's character upon being asked, and is not allowed to prove the account a true one,— we must either say, that it is no libel to blacken a man's character by the grossest falsehoods, in answer to an inquiry,— or we must say, that a true character may be libellous, though given in this manner, and yet admit a proof of the manner of giving it to be important in the inquiry. This is most clearly an instance where the circumstances of the publication are far less important to the inquiry than the truth of the matters published. Almost every circumstance in the occasion and manner of the publication may in like manner be given in evidence on either side. The particular time; the aspect of public affairs; the events alluded to in the composition; the situation of the persons mentioned; these, and similar circumstances, are generally stated in the averments of the information or indictment, and they must be proved by the prosecutor, and may be rebutted by contrary evidence on the part of the defendant. Yet, of themselves, they decide nothing as to the guilt: they only elucidate the nature of the alleged libel, and the *animus* of the publisher. It has been likewise solemnly decided, that there is nothing libellous in a publication, by a private individual, of a Parliamentary paper charging the prosecutor with treason. This was ruled upon an application for a criminal information; but, *à fortiori*, would evidence to this effect have been admitted upon the trial? \* In the case of *Rex v. Creevey*, evidence was to have been given, that the composition contained a correct — that is, a *true*, account of a speech in the House of Commons; and a motion was made, to put off the trial on account of the absence of a member of that House, the witness who was to prove it. Had the evidence tendered been incompetent, the motion would have been refused; but it was entertained, and only waived upon an admission by the prosecutor that the account was a true one. The case afterwards came before the Court of King's Bench, who held, that the account being a correct one did not constitute a sufficient defence of the publication; but no exception whatever was taken to the competency of this as matter of evidence for the Jury; on the contrary, the argument proceeded upon the fact as admitted. †

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\* *Rex v. Wright*, 8 T. R. 297.

† *Lanc. Ass.* Spring 1813, cor. Leblanc J. & in B. R. vid. M. &c.

It has, indeed, been solemnly decided, that the correctness of a report given in a newspaper, of what passed in a court of justice, may be given in evidence without being pleaded to an action for a libel; and that, if proved, it is an answer to the action: — a position which is, perhaps, too large, as laid down absolutely in that case\*; and which, accordingly, received some modification, both in *Rex v. Creevey* and in *Styles v. Nokes*, † where it was said, that ‘a wanton publication, at a subsequent period of a trial, hurtful to the feelings of the parties,’ might be libellous; but the Court never thought of refusing, in such a case, the evidence that the publication was correct: the wantonness was to be proved by other considerations — as the time, the occasion, &c.; and the correctness, so far from being excluded, was admitted, to throw upon the party complaining the burthen of proving the criminality *aliunde*. In case any doubt should remain of this rule applying to prosecutions as well as actions, it has been recognized, in a remarkable manner, by Lord Ellenborough, in *Rex v. Fisher*. ‡ His Lordship’s words are remarkable, and conceived in the true spirit of the argument which we have been maintaining. ‘Trials at law, *fairly* reported, although they may occasionally prove injurious to individuals, have been held to be privileged. Let them continue so privileged. The benefit they produce is great and permanent; and the evil that arises from them is rare and incidental.’ These words might seem to go beyond the principle we are supporting; but, of course, the learned Judge could not mean to say, that a correct report of a trial might not, under peculiar circumstances, be libellous: the *dictum*, however, and the admission of the evidence to which it refers, clearly show, that, in a criminal prosecution, it is always competent to go into the question, whether the composition gives a true account of a judicial proceeding; and that, if the affirmative is proved, the malice of the publication must then be shown by the prosecutor in some other way.§

\* *Currie v. Walter*, 1 Bos. & Pull. 525.

† 7 East, 504.

‡ 2 Campb. N. P. 574.

§ There is a discrepancy, unquestionably, between the purport of the language here cited and the report, both in *Nokes v. Styles*, and *Rex v. Creevey*. The same diversity is to be observed in the latter case and that of *Currie v. Walter*; the rule in which certainly requires some limitation; and we conceive that the observations in the text furnish it. But it is still more difficult to reconcile the observations in *Rex v. Creevey* with those made in *Rex v. Wright*; and indeed the two decisions seem themselves at variance. See particularly the argument of Lawrence J. in the latter case. It is no answer, to say that a report of a committee is a proceeding of the whole House when ordered to be printed *for the use of the members*, and that a speech is not a proceeding of the House. The business of the House consists in making and hearing speeches principally; and a speech made and heard, is strictly a proceeding, as much as a report of a committee. The printing of the report, it must be remembered, was the act of an unauthorized individual. To print the speech was as much the publication of a proceeding, as to print the report; and, strictly speaking, both publications were equally irregular, and, with reference to the House, equally a breach of its privileges. There are innumerable resolutions to this effect in the Journals. See particularly *Com. Journ.* 13 April, 1738, where the publication of the proceedings of any committee is expressly prohibited. It may further be reckoned an inconsistency between *Rex v. Creevey* and *Rex v. Fisher*, and indeed *Currie v. Walter*, that the



We entreat the reader's particular attention to the import of the instances which we have just now detailed. They are all examples of evidence being admitted in prosecutions for libel, to prove circumstances by no means necessarily inferring innocence or guilt, but merely tending to illustrate this point; circumstances which may be true, and yet the composition may be a libel, or *vice versâ*; — circumstances, in short, which stand in the same relation as the truth of the statements to the matter at issue,—with this difference, that not one of them, generally speaking, is half so intimately connected with it. The defendant is always allowed to read other parts of the composition, because they may explain away the libellous passage,—although there may be cases in which no context can explain it away. He is allowed to prove the writing which called forth the alleged libel, and any other circumstances of provocation,—although it is certain that no provocation can justify a libel. He is allowed to show that the libel was published in answer to a demand of information,—although no such occasion will justify the giving false information of an injurious nature. He is allowed to prove that the publication is a true account of what passed in Parliament or in a court of justice,—although it is certain that the libel is not the less one for having been originally spoken there; and moreover, that no man can publish a parliamentary proceeding without committing an offence against the law of Parliament, which is the common law of the land. Why, then, is such evidence allowed? It is not necessarily decisive of any thing,—it may be all taken for granted in many cases, and yet the defendant may be guilty. The prosecutor may say, ‘Grant that your composition gives a true account of the debate; still, to publish it was a libel, if its tendency is injurious to character or to the public peace, whether it originally passed in Parliament or not.’ Why is he not heard to say so? Because the law holds, that light *may* be thrown upon the motive, the *animus* of the publisher, by the production of such evidence; and that no light ought to be shut out. Why, then, is all evidence of the truth of the statements contained in the composition peremptorily excluded? The reason given is exactly that which exists in all the other cases;—it is said that those statements may be true, and yet the publication may be libellous. But this reason is listened to in none of those cases. It is only allowed to operate where the advantage of opening the door to evidence is the most important; where the harm done by shutting it is the greatest; where the evils, or rather the risk of inconvenience from a better practice, is the least considerable.

We desire to rest the great question under discussion upon the argument which we have just closed. It goes directly to the merits; it demonstrates, both that the investigation of the truth is impeded, in the most eminent degree, by the rule of law,—and that this rule is quite inconsistent with analogy, and more especially with the rest of the Libel law. An example will at once bring the matter home to the understanding of every man of common sense. He is called upon, as a juror, to pronounce whether the defendant *maliciously* or *innocently* published

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House of Commons is particularly spoken of as a court of judicature, both by Lord Coke, 4 *Inst.* 23, who cites 6 *Hen.* 8. c. 16. to show that the clerk's book is a record; and more distinctly by one of the learned Judges who decided *Rex v. Creevey* — *vide* *Burdett v. Abbot*, 14 *East*, 158, *per* Bayley J.

that a man's father was hanged : — can he, for a moment, doubt that his judgment would be materially affected by being informed, whether, in fact, the man was hanged, or the whole was a pure invention? The law, however, calls upon him to pronounce upon the guilt or innocence of the publication, without the possibility of obtaining this information; while, at the same time, it allows proof to be adduced that the story was told upon a particular occasion; that it was drawn forth by another story; that it was previously told by somebody in another place. The only thing by no means to be inquired into, is its truth. — Having, however, given the fundamental argument, it is fit that we examine the question in some other points of view.

The rule which now prevails operates most injuriously to the great interests of liberty, and of good government in general. It tends to the prevention of public discussion, beyond all the fetters that ever were invented for the press. It may be questioned, whether a previous censure would cramp its freedom much more effectually. In that case, the writer is at least secure that what he is allowed to publish cannot afterwards, with the varying caprices of the day, or changes in the ruling powers, rise in judgment against him. He labours under no anxiety: he is either at once prevented from publishing, or he knows that he is safe. The uncertainty of our Libel law,—the *jus vagum atque incognitum* which regulates this vital part of our constitution, is a most serious evil. No man can tell whether he shall be punished for daring to discuss the measures of Government freely and fairly, or not: and a great part of the uncertainty is owing to the maxim, that the truth may not be proved. If it could, the author would be pretty secure against any prosecution for a writing upon public affairs; or, if prosecuted, he would have little to fear from the result. As far as the facts bear him out, he might safely go; and his only care would be to avoid mis-statements, and to keep some proportion between the vehemence of the invective and the conduct against which it was pointed. As the law now stands, there is something quite revolting in the powers given to rulers. A minister of state, who has committed, in the face of day, the grossest injustice or oppression, or whose incapacity has been testified by the most notorious blunders, may unblushingly avow his wrongs or his incapacity, and punish whoever conscientiously and calmly states it to the country; or he may obtain the same end, by denying with still greater effrontery what is indubitably true, but what he knows must not be proved. The utmost readiness to prosecute, accordingly, has at different times been found, in persons conscious that the truth only had been proclaimed against them. Thus, informations, to the amount of above twenty, were once filed against persons who had accused a public officer of malversation; and these would no doubt have been tried without the possibility of the facts being proved, had not events in the mean time occurred which made that officer resign. These events showed, that had the trials gone on, the defendants would have been convicted for publishing statements not destitute of foundation, though incapable, by law, of being proved.

Some persons affect to see great danger to the peace of the community, and the stability of the government, in an unlimited discussion of public measures. But the rule for which we are contending would not remove all bounds from the discussion; because the defendant might still be convicted, although he had proved his facts. We are willing, however, to admit, that its adoption would greatly extend those



bounds, inasmuch as rulers would be far less prone to order state prosecutions. The only check which at present represses such proceedings, and to which the liberty of printing actually enjoyed is wholly owing, is the fear of bad ministers, lest their conduct should be canvassed, irregularly and indirectly, on the trial. This fear, indeed, may frequently operate to prevent prosecutions in themselves just, because, at present, the defendant, though he can prove nothing, may insinuate any thing; but were proof allowed, no unjust prosecution would be undertaken; the inducement to silence would be imperative, and the limits of discussion greatly enlarged. In truth, we might go further, and ask, what danger can ever result from the most unlimited discussion of public measures? In what circumstances must a government be which ought to fear it? ‘My government,’ said Cromwell, ‘is not worth preserving if it cannot stand against paper shot.’ The sagacious usurper, accordingly, trusted to the strong arm of power, and never prosecuted for libels. But a good government, founded upon free principles, and planted in the hearts of the people by the blessings it conferred upon them, would have far less to fear from paper shot than the military despotism of Cromwell, who, after all, lived to feel that the press is the appointed scourge of evil rulers, when it dared to tell him, in the face of the country, that the people could only enter upon the inheritance of their birth-right by his death.\* To hamper the press may serve the purposes of a usurper, or a wretched and incapable ruler: a just and lawful government may safely, and even advantageously, encourage the freest discussion. The influence of those at the head of affairs secures them at least an attentive hearing in their own defence; it ensures them also the support of a portion of the press. Even if they are in the wrong, they have so many circumstances in their favour, that it requires all the native vigour of truth, aided by time, to prevail against them. If they are in the right, how much more safely may they trust their support to reason, and rest satisfied with repelling or retorting the attack by weapons of the same kind? What is there so very captivating in error—what so bewitching in excessive violence—what so attractive in gross and palpable injustice—as to make those tremble, who stand firm in the consciousness of being right? Surely truth and sense have, at the least, an equal chance in this contest: and if the refutation of sophistry may be entrusted to argument, the exposure and condemnation of literary excesses may be left to good taste, without much fear of their proving hurtful to any cause but that which they are intended to befriend. The only risk that just and wise rulers can incur from discussion, is to be found in the consequences of its restriction. Hamper it, and even the best measures, the purest systems of government, have some reason to fear. No rules of law can prevent something of the truth from getting out; and, if a blunder is accidentally committed, the less free the press is, the more likely are distorted and exaggerated statements to prevail. A people kept in the dark are sure to be easily disquieted; every breath makes them start; all objects appear in false shapes; anxiety and alarm spread rapidly without a cause; and a government, whose conduct might bear the broadest glare of day, may be shaken by the delusions which have sprung from unnecessary concealment. There are a few

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\* This was the definition of *paternal* government given in those days.

supposeable cases, in which such a government may have an interest in preventing the truth from being published; but they are rare in the extreme, and nearly exceptions to the rule. There can be no case in which, when the truth has been published, it can be its interest to prevent it from being proved upon the published trial.

The present law, excluding such evidence, produces the worst possible effects in another and most important point of view. It destroys the best protection which private character can have, and greatly promotes the abuse or licentiousness of the press, in the only quarter in which it is to be dreaded — its inroads upon the comfort of individuals. A very little attention to the practical effects of the law in question will evince the truth of this position. When a man's character is attacked by a libel, the law gives him two modes of proceeding. He may bring his action of damages for the injury he has sustained; or he may prosecute criminally, for the punishment of the traducer. Before proceeding further, let us attend for a moment to the distinction which is said to exist technically between the object of these two proceedings, and upon which much reasoning is grounded: the one is called a remedy, and the other a punishment: the private party is said to have an interest in the former, but the public only are deemed to have an interest in the latter. Theoretically speaking, it perhaps is so; but the practice has departed so widely from the principle, that its operation can now hardly be traced. If the private party has no interest in the prosecution, why is he always the prosecutor? Strictly, indeed, any one else has the same right to prosecute; but, in fact, we know that the injured person alone institutes proceedings; and we will venture to say, that nothing would be more hopeless than a prosecution for a libel commenced by a third party; — if the person libelled were not brought before the Grand Jury, no bill would be found; or if, by any miracle, the defendant were put upon his trial, an acquittal would be certain. But how is it in applications for a criminal information? These are as much for the interest of the public as proceedings by indictment; and yet every part of the practice regarding them is founded upon the analogy to cases of an individual interest. No information ever was granted, except upon the oath of the party complaining, and upon an application from himself, or some one authorized, by connection with him, to apply in his behalf. He must come *rectus in curia*, and swear to the falsehood of the libel, as if he sought for compensation in damages; otherwise he is told that the court will not interfere, but leave him to the ordinary proceeding. The interference is thus termed *extraordinary*, and is treated as a favour to the party applying; whereas, if he only applied in behalf of the public, his own merits would be out of the question, and the truth or falsehood of the libel being quite immaterial in criminal proceedings, the information should be granted without any regard to the matter. He is also required to waive his right of action, which, if the criminal proceeding were wholly of a public nature, and foreign to his own interest, would be the height of injustice. He is likewise liable to costs if he fails. But in proceedings by indictment, practically speaking, the prosecutor is in nearly the same predicament as to waiving his action; for if he has prosecuted to conviction, he can never expect to recover more than nominal damages; and, if the defendant has been acquitted, no lawyer would strongly recommend going on with the action at all. He may likewise make himself liable to costs, if he prefers having the trial in one court at one time, rather



than another, although such preference is, strictly speaking, as much for the public, and as little for his own interest, as any other part of the proceeding. We can, therefore, have no hesitation in viewing both the action and prosecution as remedies given for injury offered to character, not indeed both in the nature of compensation for a loss, but both in the light of reparation, vindication, recovery. Let us see, then, in what manner the exclusion of evidence operates upon this right to reparation.

If an action is brought, the party, no doubt, defies his traducer to prove the truth of the charge, — and, so far, he saves his honour. But unless he is a person of high rank, or unless the defendant is such a one, or unless some high names are in some way involved in the transaction, he obtains a very paltry sum by the verdict. In all ordinary questions of this sort, Juries lean against heavy damages; and only award considerable sums when they are dazzled with sounding titles, or great fame and notoriety. A private gentleman may think himself well off if he leaves the court with a verdict sufficient to pay the difference between the taxed costs and the real expenses of the action: he retires with the satisfaction of having had his character estimated in the currency of the country, and his neighbours are informed that it is worth fifty or a hundred pounds. There is something revolting in this proceeding to a person of any delicacy or high sense of honour; and accordingly, it is hardly ever resorted to, except when the reason presently to be given renders it a matter of hard necessity. Then how does such an action operate upon the libeller, even when he pays considerable damages? A little of that gain is wrung from him, which he has been making by his infamous art. He has coined an honest man's character into money, and he is made to refund a per-centage: he lives upon the destruction of his neighbour's reputation, and he is compelled to let that neighbour share in the spoils of his own fame. Besides, it is manifest that this kind of proceeding encourages the worst species of detraction, that of wealthy and powerful persons, who lurk behind the backs of desperate men, and set them on to stab the reputation of their adversaries: — the penalty is easily paid, and the offence as safely repeated.

Thus, on every account, a prosecution, as it is the *only mode* of inflicting a fit punishment, is the best mode of seeking reparation; or rather, it would be the best mode, but for the rule of law in question. By virtue of that law, however, it gives no assertion of innocence; it flings out no defiance to the traducer; it rather admits that the charge is founded in truth. When the man whose character has been attacked prosecutes criminally, he is believed to be afraid of challenging inquiry; he is supposed to confess, if not that all the charge is true, yet that there is a part of it founded on fact, — that all is not right, — that there is some rotten or tender point, which will not bear probing; and, in so delicate an affair as honour, we need hardly observe that such an idea is decisive against the prosecution. By commencing it, he sets the example, if not of giving up his fame, at least of breathing upon it; and that is quite sufficient. The consequence, in fact, is, that prosecutions are not undertaken; that private character is daily attacked with perfect impunity; that professed calumniators, who gratify the malignity of their patrons, or pander for the base curiosity of the multitude, drive their dishonest trade in full security; and that the most unbridled licentiousness is known to pollute the press, in every department, except that in

which it would be harmless, at a time when the powers of Government are exerted with the greatest rigour to check every deviation from the straight line in the discussion of public measures, where hardly any extravagance could prove hurtful. Many years have elapsed since periodical publications have been carried on upon the avowed plan of purveying slander for the prurient appetite of the vulgar, in whatever rank of life. Daily papers have subsisted upon the gains of this sordid traffic for a length of time which almost affords an antidote to their venom. Death itself hardly walks abroad more unceasingly than the spirit of defamation goes its rounds in the community. The reptiles that attend him do not prey more indiscriminately upon the noblest remains, than the vermin of the press upon the fairest names. Nothing is so exalted as to be above their audacity, — nothing so sacred as to scare their rapaciousness, — nothing so humble and retired as to elude their incessant activity. Not only the public characters of statesmen, and the private conduct of public men, but the secret actions of obscure and lowly individuals, are their prey. For these they hunt the shade of voluntary seclusion, — seize upon them with the fury of hunger, — drag them forth into the blaze of day, — and tear them in pieces, to appease that gross appetite which can never be satiated.

———— ‘ à natura sì malvagià e ria  
Che mai non empie la bramosa veglia  
E dopo ’l pasto à più fame che pira.’\*

Is it that in our times slander has become more daring, — that falsehood has ceased to be cowardly? No. — It is because all risk of punishment is at an end, and the lying calumniator of private worth is secured against answering for his offence by the same law which confounds him with the publisher of truth. No one ever thinks of prosecuting; — there is hardly an instance of a periodical work being prosecuted at the instance of a private party. We only recollect one in the course of many years; unless, indeed, another is to be mentioned, where the prosecution was dropt, because the truth of the statement complained of had, after the bill was found, become quite notorious, by proceedings instituted in another court. As long as the law stands upon its present footing, this impunity is secured to libellers; and the trade of calumny must thrive without restraint. Now, as the only way at once to remove the gross injustice and inconsistency of precluding all inquiry into the truth, — to promote free discussion of public measures by discouraging oppressive state prosecutions, — and to protect private character from the licentiousness of the press, by withdrawing the obstacles to private prosecutions, it is proposed to allow the truth of the matters contained in any alleged libel to be given in evidence, and to leave this to the Jury, among other things, without calling upon them to acquit the defendant, because he shall have proved his statements to be true. We shall proceed to examine the objections which may be urged against this change in the law.

1. It is contended by some, that the change does not go far enough, — for that the proof of the truth should in every case be a defence, and operate as a justification. But to pass over the technical answer which arises from the nature of pleading in criminal cases, we conceive

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\* Danta, Inf.



that there is a most substantial reason for only allowing the evidence to go to the Jury, and leaving their verdict free. In attacks upon private character, the publication of what is strictly true may be highly criminal. No one has a right to ransack the secret life and private habits of any man, and hold them up to public view. To publish even his concealed vices, thus, is an injury done to him and to society. Even for these vices, so long as he conceals them, he has a right to impunity, if they offend against no positive law. Still more does this remark apply to mere frailties of a nature more or less venial. But a man may be rendered ridiculous by the bare publication of things, in themselves neither the objects of censure nor of contempt; things hardly concealed, at least only concealed from decorum or a sense of dignity, and which every man is conscious of, the publicity of which alone makes them appear ridiculous. To describe minutely the whole life of any one, for a day or two, would render him somewhat ridiculous, although he might have done nothing of which he ought to be ashamed; nay, nothing which he could have avoided. Therefore, the mere exactness of the statement may possibly be no defence. In cases of public libel, it is indeed less easy to conceive how a publication of the truth should be criminal. Suppose, however, there were no such instance — the line between public and private libels cannot be drawn; and if we were to take the distinction between public and private prosecution, it is well known that an individual may prosecute for a public offence.\* But, that there are public libels, properly so called, which may be criminal, though true, is easily shown. The instances are, no doubt, rare, but they exist. It may be libellous to state, in an inflammatory way, that which, if plainly stated, would be innocent; as, to address the passions of the multitude about scarcity of provisions, or of soldiers about pay. It may be libellous to address to particular classes a plain statement of that which, published generally, would be innocent, as to disperse it among a mob or an army. It may be libellous to state, even plainly, truths of a delicate nature at a peculiar crisis, — as, during an invasion, a rebellion, or a mutiny. Finally, there are certain truths (but the number is extremely small) of so peculiarly delicate a nature, that the plainest statement of them at any time would be libellous; as, the legitimacy of the reigning Sovereign; — his right to the Crown generally; — his political conduct, for which he is not responsible; — his private conduct, of which the law takes no notice. In all such cases the truth is evidently not of itself a defence; it enters indeed into the question of malice, and is favourable to the defendant as far as it goes, but is not sufficient to acquit him. In all these, on the other hand, the falsehood of the statement is decisive of guilt. Therefore, this matter should be left to the Jury, with other circumstances of evidence as to the malice or purity of the publication.

2. The objections most likely, however, to be relied upon, come from those who hold, that the change proposed goes too far. Their principal argument is, that a libel is punishable, because, without any regard to the truth of its contents, it tends to provoke a breach of the peace. Now we venture to assert, that this is not the ground of the punishment, in any other manner than many other fictitious principles have

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\* The Dean of St. Asaph's case was a private prosecution for a State crime.

been stated as the technical grounds of judicial proceedings, which unquestionably depend upon very different considerations. Thus, in actions of seduction, the technical ground is the supposed loss of the daughter's service, or the wife's society. Yet the practice is, in the former case, to award damages in proportion to the injury of the parent's feelings, without the least regard to a pecuniary loss, which is always least where the real injury sustained, and the damages recovered, are the greatest; in the latter case, damages are given where the parties lived separated by voluntary agreement, and no loss of society could occur\*; they are given, too, with a reference to many other circumstances unnoticed in the technical fiction of the law. To contend that a libel is criminal, only because it endangers the King's peace, is exactly as absurd as to hold, that the seduction of a nobleman's daughter is no injury, while the same act, committed in a peasant's family, is a serious wrong. In truth, both the one principle and the other are fictions; and ought to be laid aside when they impede justice instead of assisting it,—the only ground upon which fictions are admitted. In the civil action, the practice has so far modified the principle, as to make its original absurdity harmless: in the criminal proceeding, we must, it seems, cling to the fiction in order to do injustice. For, it is most material to be observed, that where an adherence to the fiction would lead to mercy, it is wholly abandoned. If it were, for example, urged in mitigation of punishment, that, under the circumstances of the case, no reasonable apprehension could be entertained of the peace being broken, the bare mention of such a topic would be treated with indignation, although the defendant is all the while held to have been convicted of an offence, solely because his act tended to a breach of the peace. In like manner, the fiction is lost sight of when topics of aggravation are brought forward from the high rank of the person defamed, and his pure and spotless character. Then what becomes of the care taken of the King's peace, when a man may make the most calumnious charges against his neighbour to a multitude of ten thousand persons by word of mouth, that is, with all the aids and incentives of eloquence, and no punishment whatever can be inflicted upon him? But to show at once that the fiction is not the real ground of the proceeding against libels, let the heavy punishments inflicted upon an act thus tending to a breach of the peace be compared with the trifling penalties attendant upon the actual breach, and no doubt will remain that the principle now under consideration is wholly obsolete. In truth, nothing can be imagined more absurd in itself, or more inconsistent with the analogies of the law, than to look beyond the immediate nature of the offence for the grounds of punishment. It is absurd in itself. For, why not at once admit the destruction of a man's reputation to be a crime? Why deny to character a protection so largely afforded to every other possession which we enjoy? Why hold the person guiltless who destroys the peace of a family, and ruins the fame of its most virtuous members,—when the stealing of five shillings in the house they inhabit is punishable with death? It is inconsistent with the other principles of the law of libel; for the same person who cannot prosecute for the injury done to his character, as such, may bring his action and

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\* The cases of *Wreden v. Turnbull*, and *Chambers v. Caulfield*, seem to throw doubt on this; but the law, as stated, is now received generally, especially since *Chamberlayne v. Bloomfield*.



have that very injury valued in money. Surely not another word needs be offered to prove that the attack upon reputation, and not the dangers to the King's peace, forms the real ground of criminality in all such cases.

3. It is said, that if a man has any charge to bring against another, he should prefer it in the forms which the law prescribes, for the purpose of bringing him to punishment. But how does this apply to charges which are neither the subject of prosecution or of impeachment? To publish, for example, that a person's father was tried for felony, or convicted, or executed, is, according to the law, in its strictness, a libel; and the publisher may be prosecuted; nor can he give evidence that his account is correctly true. Yet it might be very useful to publish this statement in certain circumstances, though in others it might be undoubtedly criminal: and we contend that, upon these, but chiefly upon the truth or falsehood of the statement, the complexion of the act must always depend. But in no circumstances could it be said, that, instead of publishing the account, the author should have prosecuted. Then, as to public measures, not to mention the multitude of instances in which a statesman may be highly blameable, without committing an impeachable offence; can any one, with a grave face, contend, that, instead of exposing official delinquency by means of the press, a political writer should institute an impeachment—a parliamentary proceeding competent only to members of parliament, nay, in fact, competent only to a majority of one of the branches of the Legislature? This would, indeed, be an agreeable arrangement for the public servants; they might well feel secure in their places, and amuse themselves with the destruction of their country at their leisure, if they were never to hear the voice of censure until it was recorded in the votes of the Commons by a majority of the members. But the doctrine in question is not more absurd in itself than it is inconsistent with the other provisions of the law. Who ever thought of telling a man, who had beaten another in self-defence, that he ought to have submitted in the first instance, and then indicted for the battery, or brought his action of damages? This argument was never even used in answer to a case of verbal provocation. But we are told, that some latitude is allowed to the topic of self-defence, and others in the nature of it, in order to repress aggression and insult, and prevent persons from beginning an affray. Now we contend for the controul of a free press, that is, a press free to discuss all subjects fit for the public eye—privileged to tell all truths which it concerns the public to know—exactly upon the same ground. It gives individuals a power of exposing and punishing offences, which no other vengeance can reach, and which each individual has an interest in repressing—assaults upon our liberties by bad rulers—inroads upon public morals, by glaring and ostentatious impropriety of conduct—insults to common sense and good taste, by bad authors.

4. The most plausible objection to the measure proposed, however, is, that it would enable a malicious person to give evidence of his neighbour's most private affairs, and to drag into a court of justice failings, which no one has a right to make public. Now, let the present state of the law be regarded with a view to this objection. The libeller may publish at the risk of an action being brought, in which he can justify, and give the very evidence to which the objection refers—at the risk, which in fact amounts to nothing, of a criminal prosecution.

The result is, then, that the frailties may now be published without the least danger to the libeller — and nothing worse could happen were the law changed; for the utmost evil to the party injured would only be, that he might be deterred from prosecuting by fear of the evidence being offered, while he is more effectually prevented from adopting this course, as the law now stands, by the admission of the truth which a prosecution implies. But it is to be observed, that almost all the failings alluded to are of so private a nature as to elude proof; and he who had maliciously proclaimed them would find it impossible to prove them, if the law permitted the prosecutor to defy him; so that the change would only operate in cases of a less delicate nature, where the question of ‘true or false’ is more decisive of the guilt or innocence of the publication. Nor should we lose sight of the injurious effects produced by the exclusion of this question in all prosecutions, whether for public or private libels. The defendant cannot prove the truth, though all he has written be ever so true. But for this very reason he is permitted to hint, to insinuate, to fling out, that, were he allowed, he could show this or that; to remind the Jury (in a private prosecution) that the party injured might have brought his action, had he chose to run the risk of a justification being pleaded: in State prosecutions, to enter into many extraneous discussions, themselves not always very regular or very innocent; to call, and often with success, for an acquittal, chiefly because of this defect in the law,—and all this without the least warning given to the opposite party. What is the consequence? Exactly that which always follows absurd or unjust rigour in matters of jurisprudence. The great front door exposed to view being shut, irregular unobserved avenues are opened, through which part of the matters intended to be excluded find their way, most unfairly for all innocent parties, and most favourably for the guilty, who contrives to confound his case with theirs. The defence of the man who has written nothing but the truth is crippled; he must indirectly allude to what he could plainly prove. The character of the prosecutor is hinted away by insinuations, which he can neither refute by evidence, nor put down by a broad defiance: — the man who has written a falsehood is enabled to hint as significantly as if he had told the truth, and has as fair a chance of being believed and acquitted. All but the calumniator would gain — the person traduced to the full as much as any one — by a change of practice which should exclude those indirect methods of defence, and allow nothing to be brought forward but strict legal evidence, under the watchful superintendence of the court, according to the known rules of law, and with full notice to the party whom it tended to affect.

But, in further answer to this objection, let us observe what would be the consequence of a libeller, who had published his neighbour’s private frailties, giving proof of them at his trial, supposing them to admit of it; — would not the Jury regard this as any thing rather than a defence? We are now dealing with the case which the objection supposes, of things being published, in which the community has no sort of concern. It is possible, that the giving evidence of these may be an aggravation of the original offence of proclaiming them. At all events, it will never prevent a conviction. Then the office of the Jury is at an end, and that of the Judge begins. It is hardly to be supposed, that the evidence adduced would be forgotten in awarding the punishment; and we may fairly presume, that if one libeller proved hardy



enough to attempt such a defence, his sentence would deter others from following the example. In answer, then, to the objection, we say, that if the fear of his frailties being proved in court should deter the injured party from proceeding, he would only be in the same predicament in which he is at present; but that, if he ventured to prosecute, the defendant would either not dare to give the evidence,—or, if he did, the experiment never would be repeated.

Again, let it be observed, that although, by the present practice, the truth cannot be regularly proved at the trial, it may be stated in mitigation of punishment after conviction. This has been denied, and sometimes the Court have refused to consider the question; very naturally, as it appears to us; because nothing more inconvenient or irregular can be imagined, than such a discussion in that stage of the proceedings; nor can any thing be more difficult than to discover the bounds within which the mention of the topic should be confined. But that some reference to it must be allowed in this stage, as the law now stands, is perfectly manifest. The total exclusion of it would be the most monstrous injustice, and, indeed, the grossest absurdity. It is not very consistent to maintain, that the truth or falsehood of a story should weigh as nothing in the scale which is to try the guilt of him who told it;—but to maintain that it should go for nothing in meting out the measure of his punishment, is too glaring an absurdity to bear being stated. It is possible that a person may have committed an offence in publishing a charge against another's character, though the statement be true; but who can endure the assertion, that the offence is as great, in this case, as it would have been were the whole a fiction of his malicious and false heart, and deserves the same punishment? Therefore, no court ever can maintain, that, in considering the sentence for a libel, the question of 'true or false' is still to be kept out of view. Then, how is the defendant to proceed? He must (as is the practice) state the truth by affidavit; he may, perhaps, be suffered to add the affidavits of others; and the prosecutor may be allowed time to answer those affidavits. Here, then, is an issue tried without a Jury; without cross-examination; without the personal presence of the witnesses; without any regular point being announced, to which the evidence is to be applied; without the operation of that rule, which forbids a man to swear in his own cause. The defendant is infinitely hampered by the vagueness and uncertainty of the limits which practice has traced for the inquiry; and the prosecutor, who is not allowed to defy the regular investigation of the charge brought against him, retires from his proceeding, with the satisfaction of having changed the affirmation of his traducer into an affidavit, and put the libel upon the files of the Court.

The last observation which we shall offer in answer to this objection, and it applies to others also, is, that those who urge it, confine their attention to the few cases, instead of considering the greater number—to the instances in which the prosecutor is conscious of the truth of the charge, instead of those, which at least merit equal favour, where the charge is false, and the prosecutor has nothing to fear from defying his calumniator. Even if all that we have disproved were admitted, and we were to grant that the objection has as much weight as those who state it can pretend, still it applies only to a small number of cases, viz. those of a libel founded in truth,

and which the object of it wishes to proceed against. Surely it would be most preposterous to allow so much importance to these cases, and to show them so much favour, as to make them the guide for the law in all cases;—to deprive the man who is falsely traduced, of the only means of at once clearing his character, and bringing his calumniator to justice, in order to enable one, who is perhaps unjustifiably, but still not so unjustifiably defamed, to prosecute the author of a true, but criminal publication. In no other instance does the law proceed upon such a principle; it looks to the great bulk of cases; and disregards even serious inconvenience in a few instances, more especially if these are, from their peculiar nature, less deserving of a favourable consideration.

5. It is urged as a further reason against the proposed rule, that it would enable two parties, in the trial of a question relating to themselves only, to bring into discussion, by evidence in a court of justice, the conduct and character of a third person, who has no concern in the cause, and no means of defending himself. This objection has one thing in common with almost all the others which we have examined; it supposes that the fault imputed to the new law was never heard of under the established system. Now, as the law at present stands, the very same inconvenience may occur; nay, it does happen very frequently. It may occur in every case of a libel against two or more persons, importing some joint offence, or holding them up to ridicule for some line of conduct in which they were engaged together; it must happen in every such case, where any one of the persons mentioned in the libel does not chuse to bring his action, and any of the others sues, provided there be a justification pleaded. Thus, if the libel represents a woman to have been seduced, and the father or husband brings his action, the conduct of the alleged seducer is put in issue by a plea of justification, although he has no concern whatever in the proceeding. In like manner, of a conspiracy,—and so of numberless cases which might be put, all extremely likely to occur, of ridicule cast upon associates in some common enterprize. But let us examine the objection by its own merits. It supposes the Crown, or a party having no concern in the libel, to prosecute. If a person, not at all alluded to in a composition, chuses to prefer a bill of indictment, although strictly speaking he may, yet is there the least chance of the Grand Jury finding it? Must not the prosecutor appear to be examined; and would not the absence of the party defamed, and the interference of a stranger, be a sufficient reason for any Grand Jury throwing out the bill? Or, if it were by any accident found, how far would the Petty Jury suffer the trial of such an indictment to proceed? Would they ever call upon the defendant for his case? Indeed, without manifest collusion between the prosecutor and the defendant, in order to run down a third party, the attempt is not likely to be made; and it would then be made at a very great risk of a subsequent prosecution, without any collusion, for a conspiracy. No such proceeding could ever take place by criminal information; for the court only grant it upon affidavit of the party defamed. Then, the only case in which it is conceivable, is by *ex officio* information. But, to suppose the Government, or its responsible members, that is, in this instance, the Law-officers of the Crown, base enough and foolish enough to engage in such a proceeding, is the height of extravagance. No instance can be found of the *ex officio* privilege ever being employed to prosecute



private libels; and if it were, the court which tried the cause would assuredly never call upon the defendant, but acquit, upon the bare circumstance of the person defamed by the libel not being called as a witness. We have shown, that the same inconvenience which the objection supposes, may happen at present; but a worse inconvenience of the same kind really arises out of the law excluding direct evidence as to the truth. A defendant now launches his insinuations in all directions; he is tied down to no particular time of proof; he hints and supposes and declaims, not merely against the prosecutor, but every person connected with him; and when the libel is of a public nature, instead of the rule of law tending to prevent discussions of public measures in courts of justice, the regular plan of defence is a political dissertation, or more generally an invective, upon the text of the composition under prosecution; more skillfully couched, perhaps, but much more inflammatory in its tendency; and published to all the world with the authority of distinguished names, with something of the solemnity of a judicial proceeding, instead of being circulated among a few, as the writing of an obscure or unknown individual.

Having now gone through all the objections that have ever been urged, or that we can anticipate as likely to be made, against the proposed change in the law, respecting the evidence of the truth or falsehood of the alleged libel, we conceive that we have a right to conclude, that nothing of the least weight can be thrown into the scale to counterbalance, for an instant, the reasons for its adoption. Let us now, therefore, proceed to consider the other defects in the law of libel, which, though very considerable, will not detain us long, because many of the views applicable to them have already been unfolded.

The injustice of making a master criminally responsible for the act of his servant, without the least evidence of his privacy, is obvious. It is contrary to every principle of our jurisprudence in all other cases: but this is not all; the act of the servant is not made *primâ facie* evidence of his master's privacy and guilt; it is at once conclusive, and no proof to rebut it is allowed. Thus, if a libel is published in a man's shop, he is not allowed to show that he was in America all the time, and up to filing of the information. The late celebrated Gilbert Wakefield published an answer to a political pamphlet of the Bishop of Llandaff. Instead of trusting to the arguments of the Right Reverend author for a reply, the Government prosecuted the bookseller, who, being accustomed to print Mr. Wakefield's classical works, had conceived that it was a tract upon some subject of Philology, and only learnt the nature of its contents by the notice of the prosecution. He was convicted. A printer was more recently tried for a paper published at his office, while he was in a distant gaol, suffering the sentence of the law for a former libel. Contrary to the clear rules of law, the jury acquitted him. Having, upon a former occasion, amply discussed this branch of the subject\*, we shall only at present observe, that the arguments respecting the question 'true or false,' apply in their full force to this question of privacy; and that although it may not be adviseable to make the prosecutor prove the knowledge of the defendant, yet he ought, in all cases, to be allowed to prove that the publication was without his privacy. And this proof should, with the rest of the evidence of malice or innocence, be left to the consideration of the Jury.

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\* See Edinburgh Review for April 1812.



We have already seen how little protection is afforded to private character by the law as it now stands, in one important particular. The Government is always well defended. By a most false and pernicious personification, it is likened to an individual, and endowed with character and feelings. Every supposed outrage to these is severely visited; and they who alone can be injured in their feelings — whose reputation is of any value to them, in reality are left almost defenceless. But the same injustice and inconsistency pervades the other branches of the Libel law. A distinction of the most absurd kind is taken between written and spoken slander, as if the same publicity might not be given to the latter, and the same injury done to character by its dissemination; as if, indeed, written slander did not operate against character, chiefly by becoming in its course spoken slander. What can be more absurd, than to say that no offence is committed by the most false and calumnious charges that malignity can devise, provided they are not reduced to writing? There is one thing, if it be possible, yet more absurd; and it is the other distinction of the law, that the same charges, which, if spoken, are not even actionable, may change their nature, and become so by being written down upon paper.\* We shall not go through any of the old learning upon these subtleties, because much of it is now exploded, and many nice differences are overlooked, in spite of antient and venerable names.† But it is still undoubted law, that a man's character may be falsely attacked in the tenderest point before thousands of hearers every day for a year: he may be called a coward, with all the details; a liar; a swindler; a knave; and there is no remedy by action. But if he is called a libeller, or if the slightest indictable offence is imputed to him, he has his action. So, if the least charge of any sort is written against him, and shown to a single person, he has his action. To proclaim in a public theatre, every night for a month, that a female of pure fame and high rank has been criminally connected with twenty men, and to give all the details of these fabricated amours, gives no right of action by our law; nor is it an offence in any way cognizable. But to write

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\* Some doubt having arisen upon this point, it was argued and considered at great length before the Judges in the Exchequer Chamber, upon a writ of error, in the case of *Tharley v. Kelly*, *Paseh.* 1812; and the law was laid solemnly down as in the text; the learned Judge (Sir J. Mansfield, C. J.) who delivered the judgment, explicitly stating, that had the distinction not been handed down through a series of adjudged cases, they never should have thought of taking it.

† A few specimens may amuse the unlearned reader. To accuse a person of 'swearing and forswearing,' is not actionable; to accuse him of *perjury*, is; *Stanhope v. Bligh*, 4 *Rep.* 15. 'H. seeks my life for my ground,' not actionable; *Hext v. Yeomans*, *id. ib.* 'A. is an usurer, an executor, and won't execute the will; and is corrupt, and deals corruptly,' not actionable; *Brickley's case*, *ib.* 'A. is detected for perjury,' not actionable; *Weaver v. Carriden*, *ib.* 'A. gave his champion counsel to kill me and fly,' not actionable; *Eaton v. Allen*, *ib.* 'A. did burn my barn with his own hands,' not actionable, unless the barn was part of the dwelling, or full of corn; *Barham's case*, 4 *Rep.* 18. 'Thou art a thief, and hast robbed my orchard and hop-ground,' not actionable; *Dobbins v. Franklin*, 43 *Eliz.* 'A. delivered false evidence and untruth in an answer in Chancery,' not actionable; 1 *Roll. Ab.* 70.; 3 *Inst.* 167. 'You are a swindler,' not actionable; *Saville v. Jardine*, 2 *H. B.* 534. But 'Thou art a bastard,' actionable, because it tends to disherison; *Bannister's case*, 25 *Eliz.* 'Thou art a bankrupt knave,' actionable; *Milton's case*, & 1 *Roll.* 61. 59. & *Sunb.* 'A. has a lease of certain lands, of which B. was going to give a lease to C.' actionable; *Gerard's case*, 4 *Rep.* 18.



in a private letter, that she behaved ridiculously upon any occasion, is both punishable as a crime, and entitles her to damages in a civil action. No argument can reconcile the mind to such monstrous deviations from common sense; no reference to general principles of classification can make us overlook such prodigious inconsistencies. Let it be observed too, that here, as in a former case, the Government is protected while the individual is left defenceless. Seditious words may be prosecuted criminally, though not reduced to writing, and though they impute no impeachable offence to the rulers of the State. That which it would be a libel to write against the Government, it is sedition to speak; and the character or feelings of an ideal personage are protected from the slightest breath of censure, while the delicate fame of an individual may be tarnished, and his most tender feelings racked, with impunity. Under this head, we may remark the injustice of allowing the truth to be pleaded in all cases of private defamation, whether by words or by writing, as a qualification. There are many charges against a man, undoubtedly, for uttering which, if true, he has no right to recover damages; but there also are many attacks upon his character and feelings, which no one has any right to make, although founded in facts. We have already given examples of these. If an individual in private life is held up to ridicule for failings in which the public has no concern, or merely, as may easily happen, by proclaiming his secret proceedings, whether culpable or not, he ought unquestionably to have his action, and the defendant should only be allowed to give the truth in evidence — a species of defence which, in the class of cases we are alluding to, would generally be found to increase, instead of mitigating, the damages. Upon the whole, we conclude, that the legal distinction between *words* and *libel* ought to be abolished; that defamation, whether written or verbal, should be punishable as an offence against character; that it should be actionable generally, and without regard to the technical nature of the charge which it conveys; and that, in all actions for defamation, the defendant should be allowed to give evidence of the truth, upon due notice to the plaintiff, instead of being permitted to plead it in justification; so that it may go to the Jury with the other circumstances of the case, and operate either as an answer to the action, or in mitigation of damages, or in aggravation, as the Jury shall think fit.

Hitherto, our observation has been directed to the law as it regards the substance of the wrong, whether private or public, and not to the regulations touching the mode of trial. But the extraordinary privileges of the Crown in trials for libel or seditious words, next demand our attention. These privileges, indeed, are not peculiar to Government prosecutions for this offence; but we have only at present to consider them in connection with such proceedings, where chiefly they are productive of mischief. They consist of the power to put any one upon his trial without the intervention of a Grand Jury, and without hearing him in his own behalf\*, or indeed giving him notice that there is such a proceeding in contemplation, and the right of reply, though the defendant should have given no evidence whatever.

The *ex officio* power has in vain been attempted to be defended upon

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\* Instances are to be found (but now only in Ireland) of the Attorney-General calling on a party to show cause, *before him*, why an information should not be filed by him.



the grounds of State necessity. It is alleged, that certain libels are of a nature so dangerous to the safety of the realm, that a more prompt visitation of justice is required than the forms in ordinary cases permit. But this reason is so contrary to all the known facts, that we can hardly hesitate in believing it to be founded in bad faith. For, instead of being confined to a few libels of peculiar malignity, every prosecution for this offence, conducted by the Government, is, without any exception, commenced in this way. Then, what sort of danger must it be, which, in London, (the principal scene of such prosecutions,) requires a more speedy antidote than the Assizes held eight times a year afford by indictment, not to mention the opportunity of applying to the Court during term-time? Again, is it, or is it not, true, that prosecutions by information *ex officio* are quite as slowly carried on as any others? We defy any instance to be produced, in which a day was, in point of fact, saved by this power, dating from the publication of the libel; and we could name many in which the Crown, by not praying a *tales*, delayed the trial purposely; two, in particular, of a peculiarly aggravated nature, and requiring, if any could be supposed to require, speedy prosecution. But, after all, is not this idea of speedy prosecution being necessary to prevent danger to the peace, a mere phantom? How can it operate in this way? The danger, if urgent, must have proved fatal long before the example of the punishment can operate; for six months must at least elapse before that can be inflicted. And why is such expedition required in this one case of libel alone? Is rebellion a less urgent danger? Yet no prosecution for treason is commenced by *ex officio* information; on the contrary, the law throws round the person accused of it the fence of much extraordinary delay. Indeed, even they who argue for the power upon this ground, must admit, that, by parity of reason, the prosecutor should not be allowed to put off the trial; and yet it is notorious that he has this power indefinitely; that he cannot be compelled to try the cause\*; and that, in point of fact, many informations are filed, and never prosecuted at all. Perhaps, however, the best answer to the argument, and that which most clearly evinces its unfairness, is to be found in the fact, that Revenue offences are the only ones, beside libels, that are ever prosecuted by this method. The plain truth then is, that the Crown is fearful of Grand Juries throwing out the bills. Is this apprehension well founded? Observe here a most important particular. Grand Juries are generally composed of the same individuals who compose the Special Juries, and to whom alone the Crown ever trusts the trial of a libel. Why, then, should not the same men find the bill, who are thought most likely to find the verdict? We conceive the reason to be plain. As long as the defendant is precluded from proving the truth of his statement, a Jury, when left to themselves, will be slow to put him on his trial; though, very possibly, the same men, under the direction of the Judge, and when required to

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\* That the law is as here stated cannot be doubted; nor has any attempt ever been made in practice to force on the trial of an *ex officio* information. The only means of fixing a day peremptorily for the trial is by applying to the Court to have a trial at Bar, which, of course, will only be granted in cases of peculiar importance. See upon the point generally, *Queen v. Banks*, 2 Salk. 652; *Rex v. Dyder*, 7 T. R. 661; *Rex v. Macleod*, 2 East, 202, particularly this last case.— See more, as to Attorney-General's discretionary powers, in *Rex v. Stratton*, Doug. 239.



pronounce upon a man already on his trial, may feel it difficult to avoid convicting him. Were such proof competent, Grand Juries would be less prone to quash the proceeding in the outset; and the only pretext for leaving the *ex officio* power to the Crown would be done away.

The oppressive nature of this prerogative requires no proof. It enables the Government to subject every obnoxious writer to a great expense, and to the still more harassing anxiety of a trial hanging over his head, without the power of bringing it to a determination. That the prerogative has been abused, no one can doubt who has attended to the history of the late times. We speak not now of the English reign of Terror, when, by a cry of Jacobinism, and the compliance of corrupt or frightened majorities, the ministers obtained a suspension of the Constitution, and, not satisfied with imprisoning their adversaries, attempted to take their lives. In those times, libel was not the favourite charge; it was much too mild a punishment to keep a man in anxiety for his liberty, or to shut him up in a distant gaol: stronger measures were required, and the experiment of a proscription was almost begun. But we refer to a quieter period; to the last ten years, long after all general panic had subsided; when no mortal pretended that the monarchy was in danger, and the idea of a French party had become as ridiculous as it always was groundless. The *ex officio* power was, during this time, exercised as a mere party engine, to keep the press in order, to protect weak or corrupt servants of the public from public censure, and to gratify the spleen of bigotted or sour-tempered individuals.

Within the space of three years of as profound internal tranquillity as England ever enjoyed since the Conquest, no less than forty-two informations were filed. In a single day, above twenty political writers were placed in jeopardy. At one time above half the public papers were under prosecution. Informations were filed against them; they were subjected to serious expense; and no one was ever brought to trial. The proceedings were not dropt, but suspended. The writers continued their labours with the sword hanging over their heads. They went on exposing the measures of the Government and the oppressions of the Crown lawyers, with what freedom they might, under such circumstances. Many of them have been seriously injured; none of them have received any compensation; and, at this day, there is nothing in the law to prevent the proceedings being revived against them. We may give an example or two of the actual exercise of this oppressive privilege, in order to show that it is a grand practical evil. The only information filed by that eminently learned and virtuous person, Sir Arthur Piggott, while he held the office of Attorney-general, was against a newspaper which had published a statement full of malignity and falsehood, and the immediate tendency of which was to excite a mutiny, namely, that the Government was about to send a body of troops in ships not seaworthy. The printer applied to him to waive proceedings, and offering to give up the author. The answer was that which is always given in such cases, that no bargain could be made; but that he might give up the author, and trust to the candour of the prosecutor, in case the real writer was found to have been named. The Attorney-general went out of office with his friends. A new ministry succeeded, and brought their own Attorney with them. To him the printer renewed his application. *A Nolle Pro-*

*sequi* was forthwith entered; the only one, we will venture to say, ever entered in such a case. The author was given up; that is, a name was given of some one said to be abroad, and who never yet has been heard of; and no further proceedings have been had in the matter. The facts which we have stated were mentioned in the House of Lords in 1811, and in the Commons, both then and last Session, without any contradiction. The newspaper was the *Morning Post*, notoriously the adherent of the ministry which showed it such favour. The other instance to which we shall refer happened in 1810. A paragraph appeared in a Sunday paper, and was considered libellous by the Crown lawyers. Informations were filed against the author and the publisher, and another against the editor of a daily paper which had reprinted it. The last of these was tried first, although his offence was evidently much smaller than that of the original author and printer. He was acquitted, the Judge himself directing the Jury most favourably; and the two other informations which stood next for trial were never further proceeded in. One word more as to the expense—the power of fining at their pleasure, which the Crown officers possess by means of this prerogative. It was stated in the debates to amount in some cases to eighty and ninety pounds, and in one or two to have been as high as one hundred and forty.

Sensible of the extent of the evil, statesmen of enlightened views and known attachment to the principles of civil liberty, have, at different times, proposed remedies; of which some are rather to be considered as palliatives than cures. Of this description would be, a limitation of the time within which an information should be in force, or a power given to the defendant to force on his trial. The former is exceptionable, inasmuch as it would only oblige the Crown to file a new information, and subject the defendant to additional expense: the latter would hardly produce any practical good; for, in how few cases would a defendant venture to force on his trial, when uncertain of the ultimate intentions of the prosecutor? To compel the Crown to pay costs, when an information was abandoned, that is, after a certain time had elapsed without a trial, might have a better effect; but it would only remedy a small part of the mischief: and to give the defendant his costs upon an acquittal, would be thought too great a deviation from established and general principles; besides that, even then, a large portion of the evil would remain without a palliative. It has also been suggested, that the extraordinary power should not be exercised in term-time, when the Court of King's Bench can grant the information; but the Crown would then easily pitch upon an act of publication committed in the vacation, not to mention the very trifling limitation of the abuse which such an exception would provide, if effectual as far as it is intended to go. There is, in truth, but one remedy;—and that is, the entire removal of the evil, by taking away at once this extraordinary power from the Crown, and placing libel upon the same footing with every other offence, from high treason down to a common assault. The prosecution of these, in practice, is left to the ordinary method, by indictment; and there can be no reason for adopting a different course in cases of libel. The privilege of reply ought to be abolished at the same time. There is not even a shadow of ground for the Crown being preferred in this respect. All ordinary prosecutions by indictment, except for high treason, are conducted without it. Why should the trial of libel be put on a different footing from that of mur-



der or robbery, or any of the various misdemeanors which are prosecuted by bills of indictment preferred by private parties? In fact, the privilege is founded upon a most palpable blunder—a confusion of ideas as to the objects of criminal justice. Why should any advantage be given to the prosecutor over the defendant in any case? The interest of the public is not, that the defendant should be convicted, but that he should be convicted if guilty;—not that he should be hampered in his defence, but rather that he should be aided in making the truth appear;—not that the balance should be inclined in favour of the accusation, but that it should be held perfectly even between the two sides. The privilege in question tends, nay it is expressly intended, to facilitate the conviction, without regard to the guilt of the defendant; to obstruct him in his defence, in order that the truth may not appear; to make the scales preponderate in the prosecutor's favour, that equal justice may not be done. It presupposes the defendant's guilt, and seeks to ensure his conviction. It is a remnant of the old and exploded laws, which prevented the defendant's witnesses from being examined upon oath, and, in Scotland at least, refused him the benefit of any defence wholly inconsistent with or beside the charge, as that he was a hundred miles off at the time of committing the offence.

The bill brought into the House of Commons by Mr. Brougham proceeds upon the principles now developed. It first takes away entirely the power of filing *ex officio* informations in cases of libel and seditious words; it next abolishes the power of reply, unless where the defendant has adduced evidence—thus placing Crown prosecutions upon the same footing with all others; it further prevents any such trial from being by Special Jury, unless both parties consent—thus placing the offence in question upon the same footing with all crimes of the highest nature, viz. treason and felony, and with all misdemeanors, the proceedings for which do not come from the Crown office. The bill proceeds to take away the distinction between written and spoken slander; and to provide that the latter may be prosecuted as a misdemeanor. In the next place, it allows the defendant, in all prosecutions for libel, or seditious or defamatory words, to give the truth of the statement in evidence, after due notice to the prosecutor; but it provides that the Jury may, notwithstanding of such proof, find the defendant guilty; and that the court, in passing sentence, may consider such proof either in aggravation or in mitigation, and may also consider the giving notice, without offering evidence, in aggravation. The next provision is for enabling the defendant to prove that the publication was without his privity, and the Jury to convict notwithstanding such evidence. It further takes away the distinction between words imputing an indictable offence, and words generally defamatory, declaring both to be actionable, and thus removing also the distinction in this respect between written and spoken slander. Lastly, it prohibits the truth of the statement from being pleaded in justification to an action, whether for libel or for words; but enables the defendant, upon due notice to the plaintiff, to give it in evidence under the general issue, and the Jury to take such evidence into their consideration, but to find a verdict for the plaintiff notwithstanding, if they shall think fit. Such are the provisions of this bill, omitting some matters of technical arrangement; and if there be any truth in the opinions maintained above, it comes within the description given by the preamble, and may be deemed a measure ‘for the more effectually securing the Liberty of



‘ the Press, which hath been the chief safeguard of the Constitution of these Realms, and for the better preventing of abuses in exercising the said liberty, and in using the privilege of public discussion, which, of undoubted right, belongeth to the subject.’

We have now brought this inquiry to a close ; and we cannot dismiss it, without remarking, that after all the arguments which have been offered, there is one short method of reason much more likely to prove successful against any change in the law, how deeply soever it may have its foundations in sound reason. It is a change — an innovation — and that is enough. And yet changes, innovations in the law, are matters of daily occurrence, nor ever objected to when they operate against the liberty of the press, against the antient rights of the people. In 1799 a new law was passed, to oblige all printers to furnish evidence against themselves. In 1808 a power was, for the first time, given to the Crown lawyers, of sending to prison, or holding to bail, any person against whom an information was filed. In 1807, by a more comprehensive and far wiser innovation, the whole system of civil proceedings in Scotland was altered by one bill ; and in 1815, Trial by Jury in civil cases was for the first time introduced, with a new tribunal erected for the purpose. In 1813, the antient constitution of the Court of Chancery was subverted, and a new court and a new great officer of justice called into existence. The history of the Revenue is the story of inroads upon the Trial by Jury, of new powers conferred upon creatures of the Crown, of innovations upon the old common-law rights of the subject, and the established practice of criminal jurisprudence. The political annals of the last twenty years have been filled with novel acts of legislation, tampering with the rights of the people, and changing the order of proceedings in courts of justice. Even where no temporary or party motive has prevailed, the judges and law-officers of the Crown have not been idle in the invention of crimes ; and one statute, passed in 1803, created somewhere about a dozen new felonies, while it converted a felony into a misdemeanor. In such a state of things, to set up a cry about innovation, and meet solid arguments in favour of a measure, with the observation that it is a change of the former law, seems a method of proceeding hardly consistent with good faith. It would be far better to state it at once as an objection, that the proposed amendment of the law is in favour of the rights of the subject ; tends to promote free discussion, and to check public abuses ; and all this without vesting any patronage in the government, by the creation of new places, or conferring additional powers upon the Judges, by extending their discretion. This objection would be as intelligible, and much more consistent ; and it would certainly be an honest one. In the meantime, we are content to leave the reasonings contained in these pages to the decision of the enlightened cultivators of juridical science, who will never be scared by a mere clamour ; and we take leave of the subject for the present, in confident expectation, that, sooner or later, these reasonings will produce a practical effect.\*

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\* There is no topic on which the Edinburgh Review has advocated sounder and more enlightened opinions than the Liberty of the Press. At different periods, when it was assailed by the enemies of free discussion, and subjected to the harassing persecution of an oppressive government, its rights were fearlessly and powerfully upheld by the writers in that Journal. See Vol. xviii. p. 98. Vol. xxii. p. 72. Vol. xxxvii. p. 110.



## IRELAND.

## THE CAUSES OF HER MISERY AND DISCONTENT, AND THE BEST MEANS OF REMOVING THEM.\*

THE actual state of Ireland — the magnitude, misery, fierceness, and desperation of her population, the violence of their leaders, and the fury of the contending factions to which she is a prey — ought, if any thing can, to excite the earnest and anxious attention of the people of Britain. Centuries of oppression and misgovernment have generated a deep-rooted and cordial hatred of the English name and nation in the minds of the vast majority of the Irish people, have depraved and vitiated their characters, and fitted them for the commission of every crime. There are, at this moment, from six to seven millions of peasants scattered over the surface of Ireland. And while this mighty and rapidly-increasing mass is sunk in the most abject poverty,—while it has no property to protect, no venerated institutions to defend, and nothing but injuries to redress, and wrongs to avenge, it is ready to engage in any scheme of combination and blood.

Is not this a state of things that calls loudly for inquiry? Is there any man so blind and bigotted, so stupidly attached to antiquated prejudices and errors, as to continue to lend his support to a system productive of such baleful results? Is not the experience of four centuries sufficient to convince the people and Parliament of England, that it is not by mere brute force, by penal laws, and insurrection acts, that the peace of Ireland is to be secured, and the foundations of her prosperity laid? The period has at last arrived, when it is certain that measures of a decisive character *must* be adopted with respect to Ireland; and we are bold to say, that the integrity, and, for that reason, the fate of the British empire, depends on the nature of these measures. If we act on sound and liberal principles, it is not yet too late to repair the faults and follies of which we have been guilty, and to make Ireland our best bulwark: but if we resolve to abide by our present system,—if we are determined to continue to treat *five-sixths* of the people as an inferior and degraded *caste*, and to uphold and cherish all the gross, flagrant, and scandalous abuses with which every part of the internal administration of the country is infected, we must expect to see every species of outrage redoubled, and the flames of civil war rekindled with increased fury, and raging to an unprecedented extent.

Have the people of England yet to be told that peace and kindly affections do not spring from exclusion and the sword? If we are really desirous of attaching the people of Ireland to the government of England, we must render that government advantageous to them. The peasantry must know, and they must *feel*, that they are protected by the law, that they have a *stake in the hedge*, and that every avenue to

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\* 1. Substance of the Speech of the Right Hon. Charles Grant, 22d April 1822, on Sir John Newport's Motion on the State of Ireland. 2. Speech of Sir Henry Parnell, on the Second Reading of the Irish Insurrection Bill, 24th June 1823. 3. The Orange System exposed, in a Letter to the Marquis Wellesley. 4. Report on the Employment of the Poor in Ireland. Ordered by the House of Commons to be printed, 16th July 1823. 5. Population of Ireland in 1821, as taken by Act 51 Geo. III. cap. 120. Ordered by the House of Commons to be printed, 18th July, 1823. — Vol. xli. p. 356. January, 1825.

power and emolument is open to their ambition. If you act thus, you may still attach them to your interests; if you do not, you will alienate them still more: the existing breach between the two countries will be gradually widened, and our ascendancy will depend entirely on the number of our bayonets.

But even this resource, miserable and humiliating as it is, is one on which no certain reliance can be placed. The whole disposable revenue of Great Britain will most probably be found insufficient for the maintenance of an army capable of retaining a population of six or seven millions, who have every thing to gain, and nothing to lose, by revolution, in a state of unwilling subjection. But, supposing this to be possible in a period of peace, and when the whole power of England can be directed to this one object, it would be no easy matter to exaggerate the addition which the disaffection of the Irish peasantry must make to our difficulties and dangers in a period of war. Had Humbert, when he made his descent in Ireland in 1798, been accompanied by 10,000 instead of 1000 French troops, and been furnished with 50,000 or 100,000 stand of arms, there would have been an end of the English government; and the tricoloured flag would have floated as triumphantly over Dublin, as it did over Berlin or Vienna. But the numbers and the exasperation of the people have been prodigiously increased since 1798. And if we do not totally change our conduct, it is certain that, whenever we are involved in war, either with France, or any of the other Continental powers, or with the United States, *we* shall find our bitterest foes, and our foreign enemies their most zealous and devoted allies, in the people of Ireland. No efforts will be necessary to seduce the peasantry from their allegiance,—no intrigues, no subsidies, will be required to tempt them to the field; but the first foreign standard that is erected on the Irish soil will be the signal for a rising *en masse* of a whole population impatient of oppression and burning for revenge! The system of Whiteboy association, so unceasingly acted upon for the last thirty years, has trained and prepared the peasantry for the most desperate purposes: nor do we think that it is possible to point out another instance in the history of the world, of a people so completely estranged from their rulers, and so thoroughly ripe for rebellion.

And are not these things enough to give us pause? Are they not enough to make even bigots abashed and ashamed?—and to stimulate the wise and good of all parties and denominations to lay aside their petty differences, and to co-operate for the adoption of measures calculated to guard against such tremendous consequences? Let no one suppose that the questions respecting Ireland, that must necessarily be discussed in the ensuing session, affect that country only;—though, if they did no more than refer to the means by which *seven millions* of people might be raised from helotism to freedom, and from poverty and misery to wealth and happiness, they would be of the very highest interest. But it is no exaggeration to affirm, that the destinies of the whole empire hang on these discussions. Ireland cannot sink into the abyss of poverty and degradation, without dragging Great Britain after her. Justice to Ireland is, in fact, justice to ourselves; and cannot be denied, without entailing equally ruinous consequences on the oppressor as on the victim.

Since June 1822, when we entered at pretty considerable length into an investigation of what seemed to us to be the leading causes



of the distress and misery of Ireland, much new and valuable information has been obtained. This has resulted partly from the greater attention to Irish politics, created by the King's visit; from the extent and atrocity of the disturbances in the south; from the riotous proceedings of the Orangemen of Dublin, and the consequent inquiry into the conduct of Mr. Sheriff Thorpe; from the organization of the Catholic rent, and the proceedings of the Catholic association; and more than all, from the discussions in Parliament and the investigations of Parliamentary Committees. It seems probable, from the part ministers took in the discussion of Lord Althorp's motion for an inquiry into the state of Ireland, that they had at first intended to stifle the inquiry, by limiting it to certain specified and local topics. But the powerful support Lord Althorp met with, not only from the opposition, but from many of the most respectable friends of ministers, induced them to abandon the idea of limitation; and the inquiry has been rendered as complete and effective as could have been wished. As the evidence given before this committee, though of the greatest interest and importance, has not been printed, except only for the use of the members, we can speak of it only by report; but as none of the members evinced the slightest indisposition to converse freely on the subject, its general import and bearing is sufficiently well known.

But notwithstanding the information derived from these and other quarters, much error and misapprehension still exist on many important points. Too much stress has been laid, in the discussions, both in and out of Parliament, on circumstances that exert only a very trivial influence, while some of the most prolific sources of misery and degradation have hardly attracted any notice. We conceive, then, that we shall not be doing an unacceptable service, by availing ourselves of this opportunity to enter on a fresh investigation of the causes of the misery of Ireland. We believe that Lord Wellesey, and a considerable proportion of the Cabinet Ministers, are sincerely desirous to adopt any practical measures that can be devised for allaying party violence, and arresting the progress of pauperism. But no measures, however worthily intended, which are not founded on sound principles, can possibly be advantageous. And we are anxious, by stating some of these principles, to assist in enabling the public to form a just estimate of the vitally-important proceedings about to take place in Parliament.

An inquiry into the actual social condition of the people of Ireland may be advantageously divided into two parts:—The *first* embracing an inquiry into the causes of those violent party and religious contentions, which have so long disgraced and agitated the country; and the *second*, an inquiry into the causes of the extreme poverty and wretchedness of the people.

I.—1. *Catholic Disabilities*.\*—We shall not enter, on this occasion, into any lengthened disquisition respecting the antient state of Ireland.

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\* Since this article was written, the Catholic Question has been set at rest, and several measures adopted for the benefit of Ireland similar to those so forcibly recommended by the Edinburgh Reviewers. I intended at first to abridge this Essay; but, on mature reflection, I thought it better to let it remain in its original state; and as I have not space for much matter on the political affairs of Ireland, this able disquisition may be taken as a fair specimen of the policy which the Edinburgh Review has at all times inculcated on a subject concerning which there has been so much interesting, though unprofitable, discussion.



The radical defect of its government has always consisted in its being administered by and for the exclusive benefit of a small portion of the people. The broad and bloody line of demarcation that was formerly drawn between the English settlers and the mere Irish has been effaced only to have its place supplied by the equally well-defined distinction between Protestants and Catholics. The seventeenth century began auspiciously under the enlightened administration of Sir John Davies; but it was, in the sequel, marked by incidents the most fatal to the peace and prosperity of Ireland. ‘It was a century of injury, ‘exasperation, and revenge — of war, and bloodshed, and spoliation.’\* The entire surface of Ireland is reckoned at about *twelve millions of Irish acres*; and the late Earl of Clare estimated, that *eleven millions and a half* of this number were confiscated in the course of the century! The successes of William III. secured the ascendancy of the English interest; and the violation of the treaty of Limerick, and the penal enactments of Queen Anne, threw the whole wealth and power of the country into the hands of the Protestants, and completed the debasement and prostration of the Catholic population. It is unnecessary to recapitulate all the disgusting provisions of the Catholic penal code. It is enough to mention, that it debarred the Catholics from the exercise of every political privilege; that it prevented them from acquiring property in land, from lending money on mortgages, from teaching schools, and even from acting as the guardians of their own children! Well might Mr. Burke say, with reference to this code, that ‘the laws made in this kingdom against Papists were as bloody as ‘any of those that had been enacted by the Popish Princes and States; ‘and where these laws were not bloody, they were worse; they were ‘slow, cruel, outrageous in their nature, and kept men alive only to ‘insult in their persons every one of the rights and feelings of ‘humanity.’

It is true, that the most severe enactments in the penal code are now repealed; that Catholics are allowed to acquire and transmit property, to exercise the elective franchise, and that they may be nominated Justices of the Peace, and appointed to subordinate situations in the army and navy. But enough of exclusion still remains to destroy the good effect of the concessions already made, by keeping alive all those feelings of self-superiority and insolent domination on the part of the Protestants, and of degradation, hatred, and revenge, on the part of the Catholics, which the penal code had generated. Nothing can be more completely erroneous, than to suppose that, as the *legal* operation of the existing exclusions is only to thwart a few individuals in the career of advancement, they can have no considerable influence on the mass of the people. Every man in Ireland knows that the Catholic code is not wholly repealed; he knows that the law still excludes him from situations of trust and influence to which his Protestant fellow-countrymen are eligible; and he considers this exclusion as the badge of the triumph of England over Ireland — of Protestantism over Catholicism — and as the seal of his own degradation. None but those who are acquainted with the powerful prejudices and strong nationality of the Irish peasantry, can form any idea of the effect which these feelings have on their conduct. ‘The

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\* Mr. Grant’s Speech, 22d April 1822 — one of the best speeches ever made on the subject of Ireland.



‘ opinion I have formed, as the result of all my experience, is, that  
 ‘ the whole mind of the people is occupied with politics ; that they  
 ‘ thoroughly comprehend every law, and every measure of govern-  
 ‘ ment that relates to them ; that they have a very accurate know-  
 ‘ ledge of all the privations to which they are exposed ; and that *they*  
 ‘ *not only know that they live as a class placed in a condition of inferiority*  
 ‘ *with respect to a small party in the country, but that they practically feel*  
 ‘ *all the disgrace and inconvenience of this inferiority.*\* The meanest  
 Catholic knows, that how much soever of the penal code may have  
 been repealed in *law*, very little, comparatively, has been repealed in  
*fact*. ‘ It has been often asked, why, in the case of the Irish Catholics,  
 ‘ satisfaction has not followed concession ? One reason may be as-  
 ‘ signed ; it is this — because concession has been always followed  
 ‘ by the curse of bigots in that country, which, like blight or mildew,  
 ‘ fastens on the boon, whether it proceed from royal favour or legis-  
 ‘ lative graciousness.’† The sectarian, and, until very lately, the  
 decidedly Anti-catholic spirit of the Irish government, has rendered  
 the theoretical equality of the laws a mockery and an insult. The  
 Catholics know that they are regarded by that government with aver-  
 sion and distrust ; they know that Protestants are almost exclusively  
 promoted to those situations to which both sects are equally eligible ‡ ;  
 they know that no vigorous attempt has been made to put down  
 Orange processions and associations, or to save their properties, or even  
 their lives, from the outrages and violence of the Orange party. And  
 knowing and feeling all these things, how is it possible that they  
 should be tranquil ? or that they should regard the English nation, by  
 whose interference they are held in this state of vassalage and helotism,  
 otherwise than as persecutors and enemies ?

We are told by Mr. Wakefield, on the impartiality, accuracy, and

\* Speech of Sir H. Parnell, 24th June 1823.

† Mr. Plunkett’s Speech, 22d April 1822.

‡ In the Irish post-office there were 466 persons holding offices, of whom only 25 were Roman Catholics. Under the Royal Dublin Society there were 17 persons, none of whom were Catholics. In the Bank of Ireland there were 127 persons, and of that number only 6 Catholics. In the board for paving — the board of commissioners for erecting fountains — for preserving the port of Dublin — for wide streets — amongst the trustees of the linen board — the Lord Lieutenant’s household — the city officers and common council — the committees of the pipe and water establishment — of the police, and many other public establishments, there was *not one solitary Catholic to be found* ! In the office of customs there were 296 persons employed, and only 11 of them were Catholics. In the excise there were 265 persons employed, and of that number only 6 were Catholics. Of coroners in counties there were 108, and only 14 of them Catholics. Of commissioners of affidavit there were 262, and only 29 of them Catholics. Of 71 officers under the linen board, 3 were Catholics ! In fact, on an aggregate of the public establishments, the list of which he held in his hand, there were 20,459 persons holding offices paid by the public money, and of that number only 106 were Catholics ! To show that the exclusion was not solely in the inferior offices, but extended equally to them all, he would mention, that there were 31 assistant barristers, but not one of them a Catholic. There were 106 offices in the law department of Ireland, which must be filled by barristers, the salaries and emoluments of which exceed 150,000*l.* a year, and Roman Catholics are admissible, since 1795, to 83 of these offices, producing an income of 50,000*l.* a year ; but *there was not one solitary instance of a Roman Catholic holding any such profitable and honourable appointment.*—*Mr. Hume’s Speech, 25th June 1823.*



general excellence of whose great work no eulogium can be too high, that ‘the word Papist or Catholic carries as much contempt along with it as if a *beast* were designated by the term. When the comfort or interest of the Catholic is under consideration, he must always give way; for although he stands as erect before his Maker as does the Protestant, he is yet considered as an inferior animal, and thought unworthy of participating in the same enjoyments. The Protestants are in general better educated than the Catholics; but many of them are still ignorant enough to believe that their Catholic fellow-subjects are the *helots* of the country, and that they ought to be retained in a state of perpetual bondage.’—(*Account of Ireland*, vol. ii. p. 570.)

We venture to say, that there is not an individual in the empire, not even Sir Harcourt Lees himself, who supposes that this proscription could continue for a month, were it not for the power of England. And in such circumstances, how can the Catholics avoid identifying the government of England, or rather the English nation, with their oppressors? The conviction that their debasement is the consequence of English ascendancy is, in truth, universal; and this conviction binds them firmly together in opposition to the authority of Government and of the laws. From the era of the Whiteboy association in 1760, down to the present hour, insurrection has followed insurrection in one uninterrupted series. Laws of the most unheard-of severity have been passed to repress these disorders; but as no attempt has been made to take away the causes whence they sprung, this severity has only given them a darker shade of atrocity. It is not to Parliament, but to their own efforts, that the mass of the Catholic population look for emancipation. They consider the Government as a hostile power, and they hesitate not to embrace every opportunity to wreak their vengeance on all who are either directly or indirectly invested with authority. Mr. Stephen Woulfe, an eminent Roman Catholic barrister, corroborates all that we have now stated; and as this is a point on which his authority must be considered as unexceptionable, we shall take the liberty to make a short extract from a Tract of his. ‘The peasantry,’ he says, ‘carry on, as far as they have the means, an open war against the Government, and every thing connected with it: *they look upon that Government as an usurpation, as a dominion of force which it is meritorious to impede, to elude, to subvert*; and in pursuit of which, they consider an act of patriotism, to put to death, without remorse, all whom they consider enemies or traitors. They have neither arms, nor intelligence, nor leaders, nor money sufficient to draw out a regular army into the field: if they had, we should have a campaign in Ireland before Easter. They suit their mode of warfare to their means; they carry on a desperate guerilla contest with Government, in which they give and expect no quarter. Every straggling soldier whom they catch, every gauger, every tithe-proctor, every active magistrate who has distinguished himself against them, and whom they rank among their enemies, they put to the sword. This is a dreadful state of things; and the more so, because it sucks into its vortex of guilt men who would shudder at the very thought of committing such enormities, from the ordinary motives which impel to crime.’—(*Letter to a Protestant*, 1819, p. 84.)

The Catholic aristocracy and gentry are generally, we believe, sincerely attached to the English connection, and are fully aware of the advantages that would result to Ireland from a real union with England.



But every writer of authority on Irish affairs, from Mr. Wakefield downwards, and all the witnesses examined last year before the Committee of the House of Commons, concur in opinion with Mr. Woulfe, that the still-existing remnant of the Catholic penal code is the grand source of discord in Ireland, and that it renders the peasantry universally hostile to Government, and disposes them to engage in every scheme of outrage and insurrection.

The events of the two last years have made the character of the Orange association pretty well known to the British public. The trials of Orangemen on the Northern circuits for the murder of Catholics; the habitual packing of Grand Juries in Dublin, as was established by the inquiry into Mr. Sheriff Thorpe's conduct, for the double purpose of peculation and oppression; and the open resistance to the act for suppressing illegal associations, set the conduct of this faction in its proper light. But it is the Parliament of England, and not the Orange party, who are really to blame for these excesses. So long as the system of penal exclusion is continued, — so long as a small minority of the people of Ireland are *legally* invested with a monopoly of power and privilege, — so long will they combine together to preserve their ascendancy in fact, by making an ostentatious display of their superiority, and browbeating their inferiors. Combination on the part of the Orangemen leads again to counter-combination on the part of the Catholics; and thus the whole population of the country are drawn into illegal associations, are bound by secret oaths and imprecations, and are induced to commit crimes under the supposed sanction of religion!

We believe the Catholic clergy to be, generally speaking — for we must say that there are very many exceptions — a respectable and useful body of men; and we have always held, that it would be of the last importance to endeavour to attach them firmly to Government, and to procure the exertion of their influence to give effect to the laws. But until the penal code be entirely abolished, this great influence will either not be exerted at all, or will be cast into the opposite scale. It is not in the nature of things that the Catholic clergy should entertain either veneration or esteem for a Government which loads them with disabilities, and exposes them and their flocks to the most ignominious treatment; and even if they did entertain this esteem, the strong feeling of hostility to Government, by which their flocks are so generally animated, would prevent them from acting according to their wishes. They have no tithes or glebe-lands on which to depend; so that, if they did not humour the prejudices of those by whom they are supported, they would be left wholly destitute. But if the penal code were once effectually put down, the Catholic clergy might, without exciting any suspicions of their sincerity, enter into negotiations with Government, and arrange several matters of the utmost importance. Such a moderate provision might be made for them, as would secure them a respectable station in society, and indemnify them for relinquishing the fees now payable on marriages, baptisms, &c. By this means a double advantage would be gained: — The interests of the clergy would be identified with those of Government; and they would no longer have any temptation to encourage the prevailing and ruinous habit of early marriage. Arrangements might also be made for lessening the number of holidays, for allowing the priests to marry, and for improving the present grossly-defective



system of education. Complete and unqualified emancipation would give us these advantages; and we ask whether it is possible to over-estimate their value and importance?

There is at this moment no such thing as a real union between England and Ireland. The arrangement so designated, is purely nominal; it rests on no solid or substantial basis; the two nations are not bound together by the strong and powerful ties of mutual interest and reciprocal obligation. Ireland regards England as her oppressor, and not as her protector and ally. But if the miserable remnant of the penal code were abolished — if the Catholics were placed on the same level in law and in fact as the Protestants — new interests and new feelings would arise. The recollection of past sufferings and persecutions would gradually be obliterated; good-will and confidence between the different parties in Ireland, and between England and Ireland, would begin to grow up; and the ground would thus be cleared for the adoption of those other measures that are indispensably necessary for raising the peasantry from their present state of poverty and destitution.

And what are the evils to be apprehended from complete and unqualified emancipation? What imaginable danger could result from admitting, at most, twenty Catholic gentlemen among the six hundred and fifty-eight who compose the House of Commons, and some half dozen Catholic Peers into the House of Lords? But setting these dangers in the most exaggerated point of view, are they to be compared, even for one single moment, with the danger resulting from the determined hostility of the whole Catholic population of Ireland? The man who can maintain the affirmative of so monstrous a proposition, is fitter for a cell in Bedlam, than for a seat in the Legislature. “Lord Eldon,” says Mr. Wakefield, “is reported to have said in the House of Lords, on the 18th of June, 1811, ‘Give me your distinct propositions, explain to me your safeguards and securities, and I will most anxiously consider and examine them,’ as if there were any safeguard or security equal to that which would arise from promoting Catholic industry. Industry would create wealth; wealth would supply all those comforts of life which are objects of human industry; and it is in the enjoyment of these, and the fear of losing them, that we must look for that attachment to country, which forms the surest pledge of loyalty and good conduct. Penal laws are a delusive defence, planned by ignorance, founded on injustice, reared by the unhallowed hands of tyranny, and continued by folly. No bulwarks can be equal to the affection and loyalty of a free people. Place the Catholics of Ireland on the same footing as the Protestants, and no cause will be left for complaint; their destiny will then be inseparably connected with that of their country, and they will be sensible that it is their duty as well as their interest to maintain a constitution, by the justice of which they enjoy their rights, and to the stability of which they must look up for their protection.” (Vol. II. p. 589.)

The folly and violence of the Catholic leaders have operated most injuriously and unjustly on the cause of emancipation. Nothing, indeed, can be more unfair than to judge of the feelings and views of the more opulent and intelligent portion of the Catholics, from the conduct of that junto of agitators who have gained an ascendancy in the Association. None can think more contemptuously of these persons than we do. Their whole object seems to be to acquire an ephemeral and worthless popularity, by pandering to the worst passions and prejudices of the mob; nor if they were really actuated by a desire to thwart the very



cause they pretend to advocate, could they possibly follow another line of conduct leading so directly to that end. But though it were true that the proceedings of the Association were approved by every Catholic in Ireland, that ought not to make us withhold emancipation one hour longer ; on the contrary, it ought to be considered as an additional reason for granting it. So long as any fragment of the penal code exists, so long will there be dissatisfaction, rancour, and disgust brooding in the minds of the people ; and while such is the case, artful and designing, and, it may be, well intentioned and honest, individuals will indulge in inflammatory harangues, and will endeavour to recommend their own quack nostrums and poisonous drugs, as the only certain and infallible means of restoring the public economy to a sound state of health. But if you repeal the penal laws, the occupation of these spurious Othellos will be instantly gone. If you place the Catholics on the same level as the Protestants, it will be the bounden duty of Government effectually to suppress every association and combination for political purposes, that bears any considerable resemblance to any one of those that have been formed in Ireland during the last hundred years. But until you do this, you must bear with the violence of the Catholics ; for it is the natural and necessary result of that system of exclusion and misgovernment, on which you are still acting. “Are we,” asks Mr. Burke, in his first letter to Sir Hercules Langrishe, “to be astonished, when, by the effort of so much violence in conquest, and so much policy in regulation, continued without intermission for more than a hundred years, we had reduced them (the Catholics) to a mob, that whenever they came to act at all, many of them should act exactly like a mob, without temper, measure, or foresight?”—And in a second letter to the same gentleman, he says, “After people have taken your tests prescribed by yourselves, as proofs of their allegiance, to be marked as enemies, traitors, or at least suspected and dangerous persons, who are not to be believed on their oaths, we are not to be surprised if they fall into a passion, and talk as men in a passion do, intemperately and idly.”

No one, we trust, will do us the injustice to suppose, that we mean to represent the emancipation of the Catholics as being of itself a sovereign panacea for all the miseries of Ireland. Nothing can be more remote from our opinions : and we shall endeavour, in the subsequent part of this article, to indicate some of those measures which seem to us to be essentially necessary, for removing other grievances, and for rescuing the peasantry from that abyss of destitution and necessity in which they are now plunged. But without emancipation in the broadest sense of the phrase — without emancipation in *law* and in *fact* — without the abolition of every existing legal disability, and the adoption of a system of the most rigid impartiality on the part of Government, it would be worse than absurd to suppose that the spirit of discord should depart from the land, and that the foundations of national wealth or prosperity should be laid. Emancipation is an indispensable preliminary measure. “It is not a charm that will allay every discontent, or remove every grievance ; but it is a *sine qua non* to this being done, and without it no system of measures can be successful.” \*

2. *Government and Magistracy.* — The defective state of the Magistracy, and of the administration of the laws, is the second great cause of the discontent and disaffection existing in Ireland. Dr. Bell has

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\* Mr. Plunkett's Speech, 26th April, 1816.



observed, in his admirable Tract on *the Manners and Condition of the Peasantry of Ireland*, that “if a poor person is injured by one in a higher station, he may as well apply to the Grand Seignior for a guard of Janissaries, as to the laws of his country for redress.” (p. 31.) Mr. Wakefield, Mr. Ponsonby, Lord Kingston, Mr. Grant, Sir Henry Parnell, and an endless list of other authorities of the highest character, and who enjoyed the best means of acquiring information, have joined in reprobating, in the strongest terms, the gross corruption, neglect, and scandalous partiality of many of the Irish magistrates. Even Lord Redesdale, who had been Chancellor of Ireland, publicly stated in his place in the House of Lords, in July, 1822, “*That he had been connected with that ill-fated country, Ireland, for the last twenty years; and he was sorry to say, that there existed in it two sorts of justice, the one for the rich, the other for the poor, and both equally ill administered!*” The higher order of gentry, partly from a dislike to the trouble of the office, and partly from a desire not to expose themselves to the obloquy and danger consequent upon a faithful discharge of its duties, very frequently decline qualifying themselves to act as Justices of the Peace; so that this important situation is generally filled by persons in an inferior station, without property or leisure, without a sufficiently liberal education, without the slightest disposition to decide according to the law, of which, indeed, they are in most cases entirely ignorant, and influenced solely by the most violent party feelings and prejudices. It is clear that such magistrates can be nothing else than intolerable nuisances. We speak from a full and perfect knowledge of the subject, when we say, that the great object of a large proportion of the magistrates of Ireland is to forward their own party and selfish purposes, and that they are either occupied in screening powerful culprits, or in denying redress to the poor who solicit their interposition. Dr. Bell tells us, that the magistrates of Ireland were formerly in the habit of making a *gentleman* compound for the most violent assault and battery, by paying *half a crown* to the poor man who had the hardihood to complain of such brutality! (p. 32.) And now they exert their influence with the Grand Jury, to get the bills thrown out; or, if that should fail, and conviction take place, to procure the mitigation or remission of the punishment.

Government has at length become sensible of the wretched state of the Irish magistracy; and has recently made a considerable encroachment on the peculiar jurisdiction of the magistrates, by making an assistant barrister, with a salary, Chairman of the Quarter-sessions. This innovation has been attended with the best effects; and this experience, and the flagrant abuses of the present system, will, we trust, incline Ministers to carry the principle of reform much farther. We hope, therefore, that we shall not be considered as presumptuous if we venture to suggest, that an assistant barrister, with a salary, should be made Chairman of the Petty as well as of the Quarter-sessions; that the number of unpaid magistrates should be reduced to fifteen, or at most twenty, in every county; that no clergyman, whether Protestant or Catholic, should on any account be placed in the Commission of the Peace; that no gentleman should be placed in it who is not possessed of at least 1000*l.* a year of landed property; that no magistrate should be *allowed to act at his own house*, but only when associated with the assistant barrister at the Petty-sessions; that these sessions should be held every day, and on successive days, in different parts of the county; that if the county be above the medium size, two or more barristers



should be appointed; that the powers of all city magistrates, of manor courts, and of all inferior courts, should be abolished; and that an assistant barrister should be appointed to each city.

If some such plan as this were adopted — if no barristers were appointed under five years' standing at the Bar — if their salaries were such as to be a fair remuneration to men of ability, and if the prospect of higher promotion in their profession were liberally opened to those who distinguished themselves by their impartiality, industry, and conciliatory conduct, they would have the strongest inducements to act fairly and honourably: at the same time that the magistrates, acting along with the assistant barrister, would be highly respectable, and would prevent, by their interference, any inconvenience that might be expected to arise from placing the administration of the laws wholly in the hands of stipendiary officers. We cannot doubt that such a reform as this would be productive of signal advantage. Protection would henceforth be extended to all classes and sects without fear or affection; and that sale and denial of justice, which has distinguished the conduct of the Irish magistrates up to this hour, would be for ever put an end to.

But no reform of the magistracy can ever have its natural and full effect, so long as any civil disabilities, on account of religion, are suffered to exist. A sectarian and partisan spirit vitiates and contaminates every thing, but above all the judicial character. It has the effect to give a suspicious colour, an appearance of partiality, to the acts even of the most upright judge. "It is in vain," says an intelligent Irishman, "while penal exclusion exists, to preach to the Catholic peasant the doctrine of equal justice between Catholic and Protestant. So long as he sees the Judges, the Sheriffs, and their official dependants, exclusively Protestants; — the bigoted portion of the clergy on the bench of magistrates, their very bigotry and propensity to intermeddle in politics often forming their only title to that office; — the beneficed parson the judge, and, in the ecclesiastical courts, the sole judge of tithe cases, and of the numerous questions thence arising — often adjudging the claims set up by his own tithe-farmer — it is not within the power of rhetoric to persuade him to rely on procuring redress from oppression from such magistrates. So long as the wretched remnant of the Catholic code remains, so long will it excite suspicions of partiality — so long will every error — every accidental slip — and many such must occur in a country like Ireland — of the civil or judicial magistrate, be imputed to a premeditated design, on the part of the Protestants, to trample under foot those whom such distinctions continue to degrade." \*

But when the Catholic code shall be repealed, and some such reform in the magistracy been effected as we have ventured to propose: when seats on the Bench become objects of ambition, to which Catholic as well as Protestant barristers may aspire; when clergymen, and the zealots of all sects, are excluded from the commission of the Peace; when Justices are obliged to act in open court, and under the eye and with the advice of a professional lawyer; when these things are done, and they may all be accomplished without difficulty, the peasantry will cease to regard the law only as an engine of oppression in the hands of the rich; they will gradually be taught to rely on its justice for protec-

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\* Reflections on the State of Ireland in the Nineteenth Century, pp. 53. 55.

tion ; and will no longer trust to illegal combinations and associations to redress their wrongs, and repair their grievances.

It is unnecessary to repeat what we formerly stated respecting the venality and corruption of the Sub-sheriffs of Ireland. They still continue to fatten amidst all the rank luxuriance of the most profligate jobbing. This is the more extraordinary, as the law respecting those functionaries in Ireland is exactly the same as in England ; the injured party has the same means of redress open to him ; and the Court of King's Bench possesses the same powers of punishment. It is difficult, therefore, to come to any other conclusion, from the fact of the continued and prosperous delinquency of the Irish sub-sheriffs, than that the Judges of the King's Bench have been negligent in the performance of their duties with respect to them ; for we know that it is not from want of attachments of sheriffs, that the evil has not been corrected. We have reason to believe, that the conduct of the Sub-sheriffs is now under the consideration of the Commissioners of Law Inquiry ; but we hope that no scheme for reforming that office, that may have the effect to lessen the responsibility of the judges of the King's Bench, will be recommended. The judges have ample powers to repress the corruption of sheriffs ; and they should be compelled to use these powers effectively, and to subvert a system which could not have grown to the baleful maturity it has attained, except by their inattention or connivance.

We regret to find that no steps have hitherto been taken for appointing Lords-Lieutenant to the counties of Ireland. The want of such officers was fully admitted by Mr. Peel, when the new Constables Bill was under discussion, in 1822. It is said that proper persons could not be obtained to fill the office ; but this is a mere pretext for doing nothing. The truth is, that it would be necessary, in order to make way for these officers, to displace several peers and county members, who now hold the nominal office of Governors of Counties, and that it would, moreover, be necessary to deprive these personages of their patronage and influence as colonels of militia, &c., inasmuch as it would be absolutely indispensable that all this patronage and influence should belong to the lords lieutenant. We trust, however, that these trifling difficulties and obstacles will not be much longer allowed to stand in the way of the appointment of this highly useful class of public functionaries. If resident noblemen, or gentlemen of character and fortune, were appointed Lords-Lieutenant, Government would, in future, have to deal with high public officers, who would feel themselves responsible for the conduct of their subalterns, and for the peace of their counties. Hitherto, in periods of danger and commotion, ministers, having no respectable individual in any quarter of the country, on whose statements and representations they could rely, have been obliged to derive their intelligence from the most suspicious sources. Every scheming and cunning magistrate, in every part of the country, has been in the habit of considering exaggerated representations as the surest test of loyalty, and the shortest and safest road to favour and patronage. In consequence, the offices of Government have been inundated with the memorials of Orangemen and alarmists, full of the most inveterate prejudices against their Catholic countrymen, regardless of the truth of their statements, and desirous only that they should make an impression, and thus become the means of enabling them to claim a reward for their services. Government has thus been continually deceived and deluded



with respect to the real state of the country ; and the most injudicious measures have, in consequence, been adopted. And we are not aware that there any other means of subverting this injurious system, so easy, so constitutional, and withal so effectual, as the appointing of a well selected Lord Lieutenant to each county, who should be responsible for the public peace, and from whom Government might obtain that authentic information with respect to the state and feelings of the people, of which they seem hitherto to have had so little.

The new Constabulary Bill, though perhaps bordering too closely on the *gendarmerie* system, has, on the whole, been productive of the greatest advantage. The constables have now become an efficient species of force ; and the protection they have afforded to witnesses and jurors has been eminently serviceable, and has been the means of enabling several notorious criminals to be brought to justice.

There is a considerable yeomanry corps existing in Ireland ; but this is a species of force which never has been, and never can be, advantageously employed to maintain the peace of such a country. The yeomanry are at this moment, what they were twenty years ago, almost exclusively Protestants and Orangemen ; and we have the authority of Mr. Wakefield for stating, that it was “ their imprudence, *their excesses, and their bacchanalian exultations*, that enabled the Republicans to rouse the feelings of the Roman Catholics in 1798, and excite them to rebellion.”—(Vol. II. p. 370.) Should the civil power of the country and the police be at any time insufficient to repress disorder, and to enforce the due execution of the law, none but regular troops ought ever to be called to their assistance. It is their officer’s fault if regular troops act improperly. A well disciplined soldier is a machine, made to shoot and be shot at. He is not fanatical, — he has no partialities, no hatreds, no antipathies ; — he does what he is ordered, and he does no more. But a yeoman is inflamed with all the prejudices peculiar to the district or sect to which he belongs. When a corps of such persons is called to suppress a disturbance, neighbour is opposed to neighbour, Catholic to Protestant, and civil war appears in its worst and most disgusting form. Had none but regular troops been employed at Manchester, on the 16th of August, 1819, the disastrous events which then occurred would most probably have been avoided ; and, at any rate, would have left infinitely less of rancour and irritation behind them. But the employment of yeomanry is a thousand times more objectionable in Ireland than in England. Enrolment in that species of force, being a privilege conferred on a small minority only, adds to the exaggerated notions they entertain of their own importance, and enables them to trample with impunity on their fellow subjects. There is in fact a rooted antipathy between the yeomanry and the great body of the Irish people. The humanity, prudence, and forbearance of the regular troops in 1798, formed, says Mr. Wakefield, the most striking contrast to the conduct of the militia and yeomanry ; and he adds, that “ *the moment the latter were separated from the army, confidence was restored, and rebellion shrunk back into the concealment whence it had issued.* ”—(Vol. II. p. 372.) To keep such a force embodied, or to employ it, is of itself almost enough to excite outrage.

Perhaps there is no one measure that would do so much to improve the administration of Ireland, and to divest it of that character of partisanship which has been its bane, as the abolition of the office of Lord-Lieutenant, and of the *colonial* and dependent Government of Ireland, by placing the entire management of Irish affairs in the hands of a



Secretary of State resident in London, and having a seat in the Cabinet. This arrangement, by bringing the circumstances and condition of Ireland daily under the notice of ministers, and by rendering the whole Cabinet *directly* responsible for all that was done there, would get rid at once of all those petty provincial cabals, which have always distracted and disgraced the mimic courts of the Irish viceroys. Where parties run so high as in Ireland, it is impossible for any Lord-Lieutenant to keep himself wholly aloof from them: but if the government were carried on in London, their effects would be comparatively impotent, and public measures would cease to be influenced by local considerations and a system of favouritism. The facility of communication between London and Dublin renders it just as easy for a Secretary of State resident in London to govern Ireland, as to govern Cornwall or Cumberland. Indeed, the business of the army and revenue is now wholly transacted in London, independently altogether of the Lord-Lieutenant; and we have yet to learn why the other and less important duties of government may not also be discharged there.

The objection to the abolition of the office of Lord-Lieutenant, principally relied on by Mr. Goulburn and Mr. Peel, is founded on the supposed difficulty that it would occasion in taking the opinion of Government in cases of capital conviction. But this objection is not entitled to any weight; for it is founded on a practice that prevails in Ireland, and which ought to be reformed, of trying every case of a capital conviction, first at the Assizes, and again in the chamber of the Lord-Lieutenant or his Secretary. No such thing takes place in England. If a man is sentenced to be hanged, the sentence is carried into execution on the day fixed by the judge, unless that judge thinks proper to respite him, or to forward a recommendation of mercy to Government. If there was any thing in this objection, it would apply with infinitely greater force to Scotland, or even Cornwall, both of which are farther from London than most of the Irish counties.

It is idle to refer to the quantity of business that occupies the Irish government. The fact is, that Ireland is over-governed. Every thing of the most trivial kind is submitted to the Lord-Lieutenant. If the lighting or paving of the streets of Dublin is defective, an address is voted, and a numerous body of deputies appointed to carry it to the foot of the Throne. Every little junto of magistrates assembled at petty sessions, and every bustling and prodigiously loyal individual magistrate, is in constant communication with the Lord-Lieutenant, and Messrs. Goulburn and Gregory impose on themselves the useless task of writing long and laboured replies to questions of no importance whatever. Abolish the office of Lord-Lieutenant, and we venture to say, that ninety-nine parts out of a hundred of all the business that now occupies it will instantly cease, and the local authorities will learn, as in England, to do their duty, without perpetually pestering Government with representations.

Were the separate government of Ireland abolished, the public attention would be less distracted by party violence. When a Lord-Lieutenant, like the Duke of Richmond, favours Orange politics, he is the object of the unceasing attacks of Catholic orators and newspapers; and when, on the other hand, a Lord-Lieutenant, like Lord Wellesley, is suspected of leaning to the Catholics, or meritoriously endeavours, as his lordship has done, to conduct the government on a system of impartiality, he is assailed by all the ribald vulgarity of the Orange



party, who, ten times more foul-mouthed than their opponents, scruple not to vilify and misrepresent his whole conduct, and to hold him up as an enemy to the constitution. In this way the public mind is kept constantly in a state of feverish and diseased excitement; the authority of government is brought into contempt; no real improvement can be matured, or even thought of; but a spirit of recrimination, slander, and violence, insinuates itself into every village, and even into every cabin.

But if the total abolition of the office of Lord Lieutenant should still appear too sweeping a change to be effected at once, there can be no imaginable reason why it should not be modified. The shadow of the thing will please the Irish mob, who are attached to this, as they are to many more of the evils that afflict their country, quite as well as the substance. If the office of Lord-Lieutenant is to be kept up, its duties ought at all events to be confined to those that are wholly executive. Every thing belonging to the originating or perfecting of political measures, or the disposal of patronage, should be vested in the hands of a Secretary of State for Ireland, resident in London, and having a seat in the Cabinet. The office of chief Secretary to the Lord-Lieutenant might be changed into that of under Secretary of State; and a second under Secretary might be appointed to reside in Dublin, and to form the channel of communication between the Irish Secretary resident in London, and those with whom he may have to transact business in Ireland. The sham Privy Council of the Lord-Lieutenant should be entirely suppressed. Every order should emanate directly from London. And as the government would, under the plan we have proposed, be in regular communication with responsible Lords-Lieutenant in the different counties, and would have an efficient magistracy to execute its orders, consistency and vigour would be given to the administration. The Lord-Lieutenant would be as much and as directly under the control of ministers as the commander of the forces, and would only have to execute certain specified and unimportant duties. The Castle would cease to be the theatre of plots and intrigues—the government would cease to be provincial—and Ireland would cease to “see a system with every Secretary, and a Secretary with every summer.”

3. *Church Establishment and Tithes.*—The existing Church Establishment may be considered as a principal source both of the discontent and disaffection, and of the poverty and misery of Ireland. The population of Ireland in 1821 amounted to about *seven millions*; and we have the concurrent authority of all the writers best acquainted with the state of Ireland, as Dr. Beaufort, Mr. Newenham, Mr. Wakefield, Mr. Tighe, and others, for stating, that at the very least, *six millions* of this number are Catholics; and that the remaining million is about equally divided between the members of the Established Church, and the Presbyterians and other dissenters. Now, without presuming to question the policy of making the religion of so small a fraction of the population the Established religion of the country, it is surely impossible to deny that the numbers of the Established clergy, and the revenues destined for their support, ought to bear some reasonable proportion to the number of their flocks, and the extent and laboriousness of their duties. These considerations have, however, been entirely overlooked in Ireland. The 500,000 Lutherans of that island have an establishment which costs little less than the establishment for *nine millions* of Lutherans costs the people of England. In England there are twenty-six Archbishops and Bishops, and in Ireland there are twenty-two! Mr. Wakefield has stated, that,

exclusive of their other revenues, which are very large, the estates of *five* only of these dignitaries would, if fairly let, and properly managed, be worth 530,000*l.* a year, or nearly twice as much as the entire revenue of the English Bishops! This estimate has been accused of exaggeration; but the following extracts from the returns to an order of the House of Commons (11th of February, 1824), of the quantity of land belonging to the different Sees, *exclusive of glebe lands*, will show that there is but little reason for this charge:—

Sees.	No. of Irish. Acres. *		Sees.	No. of Irish. Acres.	
Derry	-	94,836	Tuam	-	49,281
Armagh	-	63,470	Elphin	-	31,017
Kilmore	-	51,350	Clogher	-	32,817
Dublin	-	28,781	Cork and Ross	-	22,755
Meath	-	18,374	Cashel	-	12,800
Ossory	-	13,391	Killaloe	-	11,081

There are no maps of the Bishops' lands; and as these returns are made up from the accounts of the tenants, it is most probable that they are greatly short of the truth.

Now, it would be worse than idle to set about proving, by argument, that if twenty-six Archbishops and Bishops be, as is admitted on all hands is the case, fully enough for England and Wales, twenty-two such dignitaries must be a great deal too many for Ireland. Every one who knows any thing of the state of Ireland, must be satisfied that one Archbishop for the whole country, and a Bishop for each of the four provinces would be amply sufficient. Neither should it be forgotten, that the dioceses of Cork and Ross, of Leighlin and Ferns, and of Down and Connor, have already been united; and we should like to know the reason why this precedent should not be followed—why such unions should not be made in future, on the death of the present incumbents, until the dioceses are reduced to four. The simple and obvious plan would be, to make over the whole church property to the Treasury, to provide, in the first place, handsome incomes for the Archbishop and four Bishops, and the necessary parish clergy; secondly, to build churches and provide glebes where they are wanting; and, thirdly, to make some decent provision for the Catholic clergy.

In Scotland there are 950 parish clergymen, whose incomes may be taken on a high average at 275*l.* a year each; and as the Scottish clergy are not inferior in point of attainments to any in Europe, as no complaints have ever been made of the manner in which they perform their duty, but, on the contrary, as their exemplary conduct is the theme of well-merited and constant eulogy, we can see no reason why the Irish clergy should be better paid than they are. The population of Scotland is 2,135,200, of whom *a third* may be supposed to be dissenters, which, being deducted, leaves about 1500 parishioners of the established kirk to each clergyman. On the same scale the half million of Irish Lutherans would require 331 clergymen, whose incomes, at 275*l.* a year each, would amount to 91,025*l.* But supposing that *double* this number, or that 662 clergymen were necessary in Ireland, because of the Protestants being thinly scattered over the surface of the country, the whole charge for the parochial established clergy would be 182,050*l.*

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\* *Five* Irish acres are about equal to *eight* English.



a year; to which, adding 8,000*l.* a year as the income of the archbishop, and 20,000*l.* as the aggregate income of the four bishops, the whole cost of the established clergy would be 210,000*l.* a year, or not more than *one third part* of the entire revenue that either is, or might be, derived from *the church lands alone*: So that, were such a reform as this carried into effect, it would be possible to provide fully for both the Established and Catholic clergy, and for every other pious purpose, out of the church estates only; and Government would have it in their power to abolish, at once and for ever, the whole of the oppressive and odious burden of tithes.

We hold it to be perfectly visionary to suppose that tranquillity can ever be established in Ireland, so long as the Catholic cottiers and peasants are obliged to pay tithes for the support of a Protestant clergy. "Place yourselves," says Mr. Wakefield, "in the situation of a half-famished cottier, surrounded by a wretched family clamorous for food; and judge what his feelings must be, when he sees the tenth part of the produce of his potato-garden exposed at harvest time to public *cant*; or if (as is most common) he has given a promissory note for the payment of a certain sum of money, to compensate for such tithe, when it becomes due, to hear the heart-rending cries of his offspring clinging around him, and lamenting for the milk of which they are deprived by the cow's being driven to the *pound* to be sold to discharge the debt. Such accounts are not the creations of fancy; the facts do exist, and are but too common in Ireland. I have seen the cow, the favourite cow, driven away, accompanied by the sighs, the tears, and the imprecations of a whole family, who were paddling after, through wet and dirt, to take their last affectionate farewell of this their only friend and benefactor, at the pound gate. I have heard, with emotions I can scarcely describe, deep curses repeated from village to village, as the cavalcade proceeded. But let us reverse the picture, and behold the effects which are produced by oppression, when the load becomes so oppressive as to extinguish every sentiment in the breast but a desire of revenge. I have beheld at night houses in flames, and for a moment supposed myself in a country exposed to the ravages of war, and suffering from the incursions of an enemy. On the following morning, the most alarming accounts of Thrashers and of Whiteboys have met my ears,—of men who had assembled with weapons of destruction, for the purpose of compelling people to swear not to submit to the payment of tithes. I have been informed of these oppressed people having, in the ebullition of their rage, murdered both proctors and collectors, wreaking their vengeance with every mark of the most savage barbarity." (Vol. II. p. 486.)

It has been urged, as an apology for the tithe system, that the clergy are exceedingly moderate in their demands, and that, instead of a tithe, they rarely get a twentieth part of the produce. We should be glad to believe that this statement is well founded; for, if so, it would plainly form a conclusive argument in favour of the abolition of tithes. The clergy may not get the whole tithe; but the question is not, whether *they* get it, but *whether the occupiers pay it*? Owing partly to the prevalence of non-residence, partly to the extreme division and subdivision of land, and partly and chiefly to the odium and danger consequent upon direct interference, the clergy almost universally let their tithes to a farmer or proctor. It is idle, then, to tell us that the clergy do not get their full tithes. It is not with them, but with their proctors, that the

occupiers of the soil have to deal; and instead of its being true, that the proctor's demands are moderate, and that *he* is contented with less than what the letter of the law gives him a right to claim, the fact is distinctly and completely the reverse. The proctor is a harpy who preys on both clergy and people. He gives too little to the one, and takes too much from the other. "In free countries," said Mr. Grattan, "the farming of the revenue is not permitted. You would not allow it to the King, and you ought not to allow it to the church. It is an evil in politics, and a scandal in religion: and the more dangerous in the latter, because tithe being indefinite, the latitude of extortion is indefinite. The use of the tithe-farmer is to get from the parishioner what the parson would be ashamed to demand, and to enable the parson to absent himself from his duty; the powers of the tithe-farmer are summary laws and ecclesiastical courts; his livelihood is extortion; his rank in society is generally the lowest; and his occupation is to pounce on the poor in the name of the Lord! He is a species of wolf left by the shepherd to take care of the flock in his absence. He fleeces both, and begins with the parson. A tenth of your land, your labour, and your capital, to those who contribute in no shape whatever to the produce, must be oppression; they only think otherwise who suppose that every thing is little which is given to the parson; that no burden can be too heavy if it is the weight of the parson; that landlords should give up their rents, and tenants their profits, and all too little: but uncertainty aggravates that oppression; the full tenth must ever be uncertain as well as oppressive, for it is the fixed proportion of a fluctuating quantity; and unless the High Priest can give law to the winds, and ascertain the harvest, the tithe, like that harvest, must be uncertain. Now, this uncertainty is aggravated by the pernicious motives on which tithe frequently rises and falls. It frequently rises on the poor; it falls in compliment to the rich. It proceeds on principles the reverse of the Gospel; it crouches to the strong, and it encroaches on the weak; it is guided by the two worst principles in society, servility and avarice united, against the cause of clarity, and under the cloak of religion." (*Speeches, Vol. II. pp. 44—46.*)

Mr. Grattan's gigantic efforts, though supported by some of the greatest and best men that Ireland has ever produced, were ineffectual to abate this nuisance. It still continues to be a most prolific source of riot, bloodshed, and murder. We know a Catholic parish in the south of Ireland with very nearly 10,000 inhabitants. Of these, *one-sixteenth* part, or 625, only are Protestants, the remaining 9,375 being Catholics. The total amount of the dues and fees of all sorts paid to the Catholic priest, is about 240*l.* a year, of which he pays 80*l.* a year to an assistant. But this Catholic parish forms three Protestant parishes, and part of a fourth, the tithes of which, taken together, amount to not less than 1600*l.* a year; which, as there are very large tracts of grass land in the parish belonging to Protestants, fall almost wholly on the poor Catholic occupiers and cottiers, and occasion endless heartburnings and disputes. The case of almost every parish in Ireland is similar, on a greater or a smaller scale; and it is easy to conceive the consequences of subjecting the whole country to such a system. From a note on a speech of Sir Henry Parnell, it appears, that, in 1807, there were, in five counties of Ireland, no fewer than 1286 actions on cases connected with tithes: and it is stated in the Galway Advertiser, of the 18th of October, 1822, that "at the Quarter-sessions at Gort, ONE TITHE PROCTOR PROCESSED



ELEVEN HUNDRED PERSONS FOR TITHES ! *They were all, or most, of the lower order of farmers or peasants :* the expense of each process about *eight shillings.*"\* In spring 1822, the inhabitants of Ballity, in the parish of Annadown, in Galway, presented an address to the Grand Jury of that county, in which it is stated, " We suffer wrongs and oppressions beyond measure, and every effort made to redress our evils has been shamefully suppressed by influence, or baffled by intricacy. To add to our distresses, the payment of our tithes has been intolerable. We are charged much higher for them at present, when our wheat sells from 5s. to 8s. a cwt., than formerly when it sold for 25s. For the payment of these tithes our cattle are driven away at night, under the sanction of a decree ; different instances of which have occurred within this fortnight, at a period too when we have no money : several of us having been obliged to sell our little collection of wool, though in process for a coat. The demand for tithes and costs exceeds half the proceeds of our corn. Many of us are almost destitute of food and raiment ; some amongst us are literally starving, and others subsisting solely on damaged wheat. What to do, or where to apply for relief, we know not ; misery is heaped on distress, *and we bear it patiently*, rather than forfeit our exemplary character. We thus publicly disclose our misfortunes, in the hope that, if there exists now-a-days virtue, integrity, or justice, something may be done to correct the present destructive system of tithes, and the frauds committed on the poor by a certain class of high constables."

But whatever the inhabitants of Ballity may do, the great mass of the Irish peasantry do not patiently submit to this abominable and grinding rapacity. In despite of Whiteboy acts and Insurrection acts, they continue to wreak their vengeance on their oppressors ; and unless they become more or less than men, they will continue to do so until this detestable system be wholly abolished.

We are told, however, and told by Mr. Plunkett too, that it is idle to think of redress — that the evil is irremediable ! Tithes are said to be the *property* of the Church ; and any scheme for their abolition, or even commutation, is represented as founded on a principle of rapine and spoliation ! We are really astonished at the confidence with which this ridiculously absurd dogma has been maintained. It might as well be said that the taxes levied for the support of the army are the *property* of the soldiers, and that any attempt to reduce them would be a violation of the right of property ! Tithes are *not* the property of the clergy. They are the property of the public ; who give them to the clergy as a reward for their services, and who may, consequently, apply them to other purposes the moment they choose to dispense with these services, or to reduce their wages. Neither tithes, nor Bishops, nor Presbyteries, make any part of the Christian religion. An established Church is a mere human institution ; and can boast of no higher or more respectable origin than a custom-house or a standing army. The clergy stand in exactly the same predicament as any other class of public functionaries. *They are servants of the public*, paid for instructing the people in their moral and religious duties ; and it is mere drivelling to suppose that Government has not a right to regulate their salaries, or to dismiss them altogether. We admit that it would be most unjust to deprive the

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\* It was stated by Sir Henry Parnell, in the House of Commons, that a citation in the Ecclesiastical Court for a tithe of only 18s. 10d., costs the defendant 2l. 10s.

*present incumbents* of their revenues ; and a full compensation or equivalent ought, therefore, to be given them for whatever they might lose by the adoption of the plan we have recommended. But there is no reason, and there can be none, why the tithe system should be made perpetual, — why the public should be made to support the same number of established clergymen in all time to come, and to pay them *five* or *six* times the sum that would suffice to procure the services of an equally learned and pious body of men. No man of ordinary understanding will ever be induced to believe, that those who support the flagrant and almost inconceivable abuses of the Irish tithe system, do so lest in subverting it they should be invading the right of property ! Every one must see that tithes are nothing more than an arbitrary, oppressive, and ruinous tax on the gross produce of the land, exclusively laid out in paying the wages of a particular class of public servants. And although it were neither expedient nor politic to reduce the number of these servants, nor to lower their wages, Government would be just as little liable to the charge of injustice, or of invading the rights of property, were they to do so, as they are when they pay off a line-of-battle ship, or reduce the wages of the seamen.

It is due to the Marquess Wellesley to state, that he has been the first statesman who has had courage to meddle with tithes. Not that we think the bill introduced by Mr. Goulburn, and since passed into a law, can be of any material service. It is in vain to palter with the Irish tithe system. In fact, the only thing good about it, is the impossibility of mending it. But the late measure is valuable, inasmuch as it fully recognises the principle of Parliament interfering to regulate the incomes of the clergy — a principle which must be acted upon to an infinitely greater extent, before tranquillity can be restored to Ireland.

These three — the penal disabilities under which the Catholics still labour, the defective state of the Government and Magistracy, and the Tithe system — seem to us to be the main sources of the violent religious and party animosities with which Ireland has been so long distracted and disgraced. We have endeavoured briefly to trace the effects resulting from each of these sources of contention, and to show how they might be dried up, and tranquillity restored. The remedies we have proposed are all easy of adoption — and if Government would but honestly and earnestly set about the work of reform, a few years would make the greatest possible change on the condition of the country. “Laws of coercion, perhaps necessary, certainly severe, you have put forth already, but your great engine of power you have hitherto kept back ; that engine which the pride of the bigot, nor the spite of the zealot, nor the ambition of the high-priest, nor the arsenal of the conqueror, nor the Inquisition, with its jaded rack and pale criminal, never thought of ; the engine which, armed with physical and moral blessing, comes forth and overlays mankind by services — the ENGINE OF REDRESS ; this is government, and this is the only description worth your ambition !” \* This engine must be brought into the field, or Ireland will be lost. Hitherto the dominant party in that country have entirely overlooked the real cause of the disturbances and atrocities of which she has been the theatre. It does not lie in the perverse habits and inclination of the wretches whom they have trampled upon, oppressed, and sent to the gallows, but in *themselves* — in their own domineering,

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\* Grattan's Speeches, vol. ii. p. 69.



rapacious, and intolerant behaviour. If they reform their own conduct entirely, the peasantry, they may be assured, will not be long in reforming theirs. Let them bear in mind, “that *exile and death are not the instruments of government, but the miserable expedients which show the absence of all government.*”<sup>\*</sup> Let them treat the mass of the people like men who ought to be as free, and who have the same rights and feelings, as themselves; and those disorders, which are the result of religious and political animosities, will soon cease to disturb and harass society.

II. With respect to the *second* great branch of our enquiry, or that which has for its object to discover the causes of the extreme poverty and destitution of the Irish peasantry, we believe it would be correct to say, that the oppression and misgovernment to which they have been so long subjected have had, even in this respect, a very powerful influence. Political degradation most frequently leads to extreme poverty. Oppression, like that which has been practised in Ireland, lowers the moral dignity of the people; it sinks them in their own estimation; and, as it takes away all rational expectation of rising in the world by the mere exertion of honest industry, it effectually prevents its being made. Moral restraint cannot be expected to have much influence in a country so circumstanced. An enslaved and degraded population eagerly grasp at any immediate gratification within their reach, and, reckless of the consequences, plunge into every excess. But as we have shown how these causes of degradation may be removed, we shall not farther insist on this point; but shall now proceed to show on what the rate of wages depends, and to investigate the more important of the causes, not hitherto noticed, which have tended to sink that rate in Ireland to a pittance so low as hardly to be able to support mere animal existence.

That the power of employing labour possessed by any country does not depend either on the fertility or extent of its territory, but on the *amount of its capital*, is a fundamental principle in the science of wealth, and it is one respecting which there is no longer any room for doubt or difference of opinion. By capital is meant all that portion of the national stock employed to maintain productive labourers, or to facilitate production. It comprehends the food and clothes of the workman, the raw materials on which he exerts his industry, and the various tools and machines of whose assistance he avails himself. There is no other fund from which the labourers can possibly draw the smallest portion of their subsistence: *and hence it is that the amount of subsistence falling to the share of each labourer at any given period, or the rate of wages, must wholly and entirely depend on the proportion which the national capital bears to the amount of the labouring population.* If the amount of capital be increased without a corresponding increase taking place in the population, a larger share of such capital will necessarily fall to each individual, or, which is the same thing, the rate of wages will be proportionally increased; and if, on the other hand, population is increased faster than capital, a less share will be apportioned to each individual, or the rate of wages will be proportionally reduced. The well-being and comfort of the labouring classes are, therefore, especially dependent on the proportion which their increase bears to the increase of the capital that is to support and employ them. If they increase faster than capital,

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\* Mr. Plunkett's Speech, 26th April, 1816.



their wages will be progressively reduced ; and if they increase slower than capital, they will be progressively augmented. In fact, there are no means whatever by which the command of the labouring class over the necessaries and conveniences of life can be really augmented, other than by accelerating the increase of capital, or by retarding the increase of population ; and every scheme for improving the condition of the poor, not founded on this principle, or which has not for its object to increase the ratio of capital to population, must be wholly and completely ineffectual.

The principle we have now stated, goes very far indeed to explain the cause of the misery of the Irish peasantry. It is certainly true that there has been a considerable increase in the capital of Ireland during the last hundred years ; though no one in the least acquainted with the progress of the different parts of the empire, has ever presumed to say that this increase has been either a *third* or even a *fourth*, so great as the increase of capital in England and Scotland during the same period. But the increase of *population* in Ireland as compared with its increase in Britain, has been widely different from the increase in the *capital* of the two countries, or in their means of maintaining and supporting population. According to the tables given in the Parliamentary Reports, the population of Britain amounted, in 1720, to 6,955,000, and in 1821, it amounted to 14,391,000, having a little more than doubled in the course of the century. But from the same Reports it appears, that the population of Ireland, whose capital had increased in so very inferior a proportion to that of Britain, amounted to a very little more than *two* millions in 1731, and to very near *seven* millions in 1821 ; having nearly *quadrupled* in less time than the population of Britain took to *double* !

Attempts have been made to show, that the population of Ireland in former periods has been underrated, and that its increase has not really been so rapid as we have represented. But these attempts have entirely failed of their object ; and have served only to confirm the conclusions they were intended to subvert. The first authentic account of the population of Ireland is given by Sir William Petty, in his admirable little tract entitled the *Political Anatomy of Ireland*. Sir William had been employed by Government to superintend the survey and valuation of the forfeited estates, instituted during the Protectorate ; and so well did he execute his task, that this survey still continues, after the lapse of near two centuries, to be the standard of reference in the courts of law, as to all points of property. He had, therefore, the best means of obtaining accurate information with respect to the numbers and condition of the people ; and as the results of his researches on these points are exceedingly curious, we shall give them in his own words :—

“ The number of people now in Ireland (1672) is about 1,100,000, viz. 300,000 English, Scotch, and Welsh Protestants, and 800,000 Papists ; whereof one fourth are children unfit for labour, and about 75,000 of the remainder are, by reason of their quality and estates, above the necessity of corporal labour ; so as there remains 750,000 labouring men and women, 500,000 whereof do perform the present work of the nation.

“ The said 1,100,000 do live in about 200,000 families or houses, whereof there are about 16,000 which have more than one chimney in each, and about 24,000 which have but one ; all the other houses, being 160,000, are wretched nasty cabins, without chimney, window, or door-



shut, even worse than those of the savage Americans, and wholly unfit for the making merchantable butter, cheese, or the manufactures of woollen, linen, or leather.

“By comparing the extent of the territory with the number of people, it appears that Ireland is much under-peopled; forasmuch as there are above 10 acres of good land to every head in Ireland; whereas in England and France there are but four, and in Holland scarce one!” (Pol. Anatomy of Ireland, pp. 114 and 118. ed. 1719.)

In 1731 an enquiry was instituted, by order of the House of Lords of Ireland, for ascertaining the population, through the medium of the magistrates and established clergy, the result of which gives a population of 2,010,221. At this period, and for long after, Ireland was essentially a grazing country. To such an extent, indeed, was the pasturage system carried, that, in 1727, during the administration of Primate Boulter, a law was made to compel every occupier of 100 acres of land to cultivate at least five acres, under a penalty of 40s.!

According to the returns of the hearth-money collectors, the number of houses in Ireland in

1754 was	395,439	Which allowing six inhabitants to each house, gives a population of	2,372,634
1767 —	424,646		2,544,276
1777 —	448,426		2,690,556
1785 —	474,322		2,845,932
1788 —	650,000		3,900,000
1791 —	701,102		4,206,612

An incomplete census was taken in 1812, from which the population was computed at 5,937,856: and by the last and complete census, taken in 1821, it appears that Ireland contained, at that epoch, a population of 6,801,827, which were thus distributed:—

Leinster	-	-	-	-	1,757,492
Munster	-	-	-	-	1,935,612
Ulster	-	-	-	-	1,998,494
Connaught	-	-	-	-	1,110,229

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6,801,827

Now the area of Ireland, measured on Arrowsmith's map, consists of 31,640 square miles, of 69.15 to a degree, which gives, on an average, 215 persons to each square mile! But the average of Leinster, Ulster, and Munster is not less than 240—a density of population far exceeding what is to be found in the richest and best cultivated countries of Europe. England and Wales with their improved agriculture, their immense manufacturing and commercial wealth, and their populous cities, have only 207 persons to a square mile; and the Netherlands, full of wealth, cities, and people, can only boast of a population of 212 to a square mile, being 23 less than the average of Munster! Connaught, covered with bogs and morasses, and without one great town, has, notwithstanding, a population of 137 to each square mile; while the Lowlands of Scotland, with Glasgow, Edinburgh, Paisley, Perth, Dundee, &c. to swell their numbers, have only a population of 127! Ireland, therefore, sunk as she is in beggary and destitution, is the most densely peopled country in the world. Other countries only become populous when they have the means of comfortably supporting a large population; but Ireland is populous without wealth—she is populous because her inhabitants are satisfied with the merest pittance that can support ex-

istence — because they have consented to divide among *three*, food and clothing not more than sufficient for *one*!

It is undoubtedly this excessive amount of population that is the immediate and proximate cause of the want of an effectual demand for labour in Ireland, and of the squalid and abject poverty of the people. The number of persons soliciting employment, compared with the means of employing them, is so very great, that wages have been reduced to the lowest pittance that can afford the smallest supply of the coarsest and cheapest species of food necessary to support human life. All the witnesses examined by the Committee of the House of Commons on *The Employment of the Poor of Ireland* in 1823, concur in representing their numbers as excessive, and their condition as wretched in the extreme. Their cabins are utterly unprovided with any thing that can be called furniture; in many families there are no such things as bedclothes; the children, in extensive districts of Munster and the other provinces, have not a single rag to cover their nakedness; and whenever the potato crop becomes even in a slight degree deficient, the scourge of famine and disease is felt in every corner of the country. The Right Honourable Maurice Fitzgerald, M. P. mentions that he had known the peasantry of Kerry quit their houses in search of employment, “offering to work for the merest subsistence that could be obtained, for *two-pence* a day, in short for any thing that would purchase food enough to keep them alive for the ensuing twenty-four hours.” (*Report*, p. 158.) Mr. Sterne Tighe mentions, that “the number of people supported in Ireland by charity, is quite inconceivable; they must be supported either by charity, or by pillage and plunder; to the want of employment I attribute every thing that afflicts and disgraces that country.” (*Report*, p. 108.) And Dr. Rogan, whose excellent work on the Fever in the North of Ireland was published in 1819, states, that, “throughout the extensive counties of Tyrone, Donegal, and Derry, the population is only limited by the *difficulty of procuring food*. Owing to the universal adoption of the cottier system, and to the custom of dividing farms among the sons on the death of the father, *the labouring classes are infinitely more numerous than are required for the purposes of industry*. Under these circumstances, they are engaged in a constant struggle for the bare necessities of life, and never enjoy its comforts.” (p. 8.)

These statements, which might, were it necessary, be multiplied to infinity, conclusively show that a vast increase has taken place in the population of Ireland, and that it is now both superabundant and miserable in the extreme. And hence, the obvious and undeniable inference, that in the event of the population having increased less rapidly than it has done, there would have been fewer individuals soliciting employment, and that consequently the rate of wages would have been proportionally higher, and the condition of the poor so far improved. No proposition, then, can be more true, than that *the unexampled misery of the Irish people is directly owing to the excessive augmentation of their numbers*; and nothing can be more perfectly silly and childish, than to expect any real or lasting amendment in their situation, until an effectual check has been given to the progress of population. Our next object will therefore be, to investigate the causes which have occasioned this extraordinary increase, and to point out the means by which they may be counteracted.



1. The bounty acts of 1783 and 1784 seem to have given the first great stimulus to the population of Ireland. When the patriotic efforts of GRATTAN and the Volunteers had achieved the nominal independence of Ireland, and procured the abolition of those oppressive and absurd restrictions, with which the ignorant jealousy of the British Parliament had fettered her foreign commerce, the Irish Parliament made a powerful effort to awaken the industry and stimulate the energies of the people. But unfortunately the means resorted to by them for the accomplishment of this desirable purpose, were not of a kind that could possibly be productive of any lasting or real advantage. Instead of contenting themselves with breaking down the restraints under which they had laboured, and giving freedom to commerce, they had recourse to all the artificial expedients of the restrictive system. In imitation of the erroneous policy of England, they granted high bounties on the exportation of corn and other raw produce (three shillings and fourpence per barrel on wheat, and other grain in proportion), at the same time that they laid prohibitory duties on their importation from abroad. In vain did one or two members urge, that, though the bounty system might be apparently beneficial for a few years, it could not be otherwise than injurious in the end. Their feeble, and, as it was considered, anti-national, opposition was drowned amid general acclamations; and measures, which have done irreparable mischief to Ireland, were hailed with the enthusiastic plaudits of her choicest patriots!

Previously to the passing of the bounty acts (23 & 24 Geo. III. cap. 19.), Ireland was, as we have already stated, essentially a *grazing* country. But no sooner had they been passed, than the pasturage system gave place to tillage. The unnatural and artificial enhancement of prices, caused by the bounty and the restriction on importation, occasioned an immediate and extraordinary increase of cultivation. In proof of this, we subjoin the following *official* account of the number of barrels of barley, oats, and wheat, exported from Ireland in the under-mentioned periods:—

Exported from Ireland, on an average of the 3 years ended,	Barrels.			
	Barley.	Oats.	Wheat.	Oatmeal.
25 March 1773,	6,445	22,956	2,022	34,825
Do. 1783,	19,696	106,570	60,246	25,467
Do. 1789,	83,929	323,072	110,337	131,546

Had the Irish bounty acts been productive only of an increase of *corn* cultivation, they might not perhaps have been very injurious: but such has not been, and could not rationally be expected to be, their only effect. In 1784, as at present, there was very little capital in Ireland; and the impossibility, resulting from this circumstance, of finding tenants capable of occupying and cultivating large tillage farms, induced the proprietors to divide their estates into small portions, and even to let them on the ruinous system of *partnership* leases. So that the stimulus that was intended to act exclusively on *agriculture*, had an infinitely more powerful effect in causing the subdivision of farms, and in deluging the country with a redundant and starving *population*.

In 1806, the previously existing restraints on the trade in corn between Great Britain and Ireland were wholly abolished; and while the markets of England were opened to the free competition of the



Irish growers, the high prices that were obtained during the war continued the impulse originally given by the bounty acts, and occasioned a further and very great extension of tillage.

2. But the effect of the bounty acts, and of the opening of the markets of England, must have been comparatively trifling, had it not been for the peculiar customs and manners of the people, and the nature of their civil and political institutions. The custom of *gavelkind*, or of equally dividing the paternal property, whether freehold or leasehold, among all the children of a family, has always prevailed among the Irish. Sir John Davies particularly specifies this as one of the customs that had mainly tended to perpetuate the barbarism and poverty of the people; and it still continues to exert an equally powerful and disastrous influence. Taught from their infancy to depend entirely on the land for support, and assured that they will, either on their marriage or the death of their father, get a certain proportion of the land held by him, many of the most powerful motives to enterprise and industry are either wholly destroyed or greatly weakened, and the country is gradually split into small patches, and overspread with an idle, a beggarly, and an excessive population. "The farmer," says Mr. Townsend, "who has half a dozen sons, may, perhaps, for one or two of them find trades; *the rest are provided for by an equal partition of the land.* By such means, the farmers of this county are, for the most part, reduced to petty cottagers. As long as subsistence can be procured, and in this respect they are very moderate, nothing can induce them to quit the favourite spot on which they were born.—A farmer often estimates his riches by the number of his sons, whose labour precludes any necessity of mercenary aid; but this lasts only for a short time. They marry at an early age, new families arise, a separation of interest takes place, and with it a partition of the farm. The same system still going on, future subdivisions are to be made, productive of jealousy and quarrel." (*Survey of Cork*, 2d ed. vol. i. pp. 87 and 208.) This custom obtains universally throughout Ireland. In many districts, when a daughter is married, her husband obtains a share of her father's farm.

So long, however, as the rearing of cattle formed the principal employment of the Irish farmers, the custom of *gavelkind*, or the equal partition of property among children, was comparatively harmless. For, as the pasture lands were generally let in immense tracts to opulent graziers, only a few individuals were required to feed and take care of the cattle, and these were not generally permitted to occupy any land. But the passing of the bounty acts gave birth to a new order of things. Even though capital had been as abundant in Ireland as it was deficient, it would have been impossible for a tillage farmer to have managed such large tracts of land as were previously held by single graziers. Not only, however, was the size of the farms greatly reduced, but the new occupiers, being for the most part exceedingly poor, were glad to buy whatever labour they could obtain by granting the peasantry allotments of small pieces of ground, whereon they might erect cabins and raise potatoes. But the stimulus that had thus been given to population did not, as might indeed have easily been foreseen, cease, when a sufficient supply of labourers was obtained to cultivate the country. The habits of idleness and of early marriage, caused by the equal partition of the paternal farm, operate quite as powerfully on the children of the occupier of a farm of 50 as of 500 acres, and will certainly continue, if left



to exert their full and natural influence, to operate until they have reduced the whole country into potato gardens, and farther subdivision and degradation have become impossible! In the counties of Clare and Limerick, and generally throughout Ireland, there are innumerable instances of farms of from 300 to 500 acres, originally let from thirty to forty years ago to single tenants *possessed of capital sufficient for their cultivation*, and now split, perhaps, among twenty, thirty, or forty families, by means of the repeated divisions that have taken place, in consequence of the death of fathers, and the marriage of children.

We have no hesitation in avowing our decided conviction to be, that no measures which it is possible to adopt for the improvement of Ireland can have any material influence, unless an effectual check be given to the practice of subdividing farms. Such a practice would of itself, and without the assistance of any other debasing influence, serve to pauperise and degrade any people. It is indispensable, therefore, that it should be corrected; a result which can only be brought about by *fearlessly changing the whole law of Ireland with respect to landlord and tenant*. The fact is, that this law, which is substantially the same as that of England, is totally inapplicable to a country in the situation of Ireland. Most fortunately the people of England have always been extremely indisposed, as we trust they will ever continue to be, to make an equal division of the lands occupied by an individual among his children, and to practise subletting. Marriages have, in consequence, been generally deferred to a much later period than in Ireland; and a large proportion of the population have been forced to depend for subsistence on manufactures and commerce: but in Ireland the custom of subdividing and subletting, sanctioned by the old Brehon laws, has always been acted upon. Her population have, in consequence, been always in excess, and never have had the least desire to obtain a livelihood otherwise than by the cultivation of the soil. It was not to be expected, when the circumstances of the two countries were so extremely different, that a law, which was suitable for England, should at the same time be suitable for Ireland; and the experience of centuries has proved, that, far from being suitable, it is most injurious, and has powerfully contributed to her degradation.

But while Ireland has thus been sinking deeper and deeper into ruin and misery, under the operation of the English law of landlord and tenant, Scotland has risen under the operation of a wholly different law, from a state of extreme poverty, barbarism, and insubordination, to one of great wealth, refinement, and the most perfect tranquillity and order. And hence, in venturing to recommend the abolition of the existing law of Ireland on this subject, and the introduction in its stead of a system nearly similar to that which obtains in Scotland, we are not recommending any new or untried theory, but are proceeding on the sober and solid ground of experience and observation.

In Scotland,—to speak generally indeed, but with as much accuracy as our purpose requires,—a lease is considered as *real* and not as *personal* property. When a farm is let on a lease of ordinary endurance, 19 years for example, to an individual or his heirs, and even when no mention is made of heirs, if a power be not *expressly given in the lease* to assign or sublet, the farm cannot be sublet by the tenant; and must necessarily pass at his death to his *heir-at-law*, to the exclusion of every other person. The tenant under such a lease has no power to introduce a new tenant into the farm, or to change the established order of

succession to the lease held by him; he cannot dispose of it by will or testament to any particular individual or individuals, whether of his own family or not, to the prejudice of his legal heir. If the lease gives the tenant a power to assign or sublet, an assignment or a sublease will be valid; otherwise they are of no value whatever. Should the tenant assign or sublet, contrary to this general rule of law, and still more if contrary to a clause to restrain him, the landlord may bring an action in the Court of Session to have the lease forfeited, and the subtenants ejected from the farm: and the Court, who dispose of such actions without the intervention of a jury, will, on the fact of an assignment or sublease having taken place being established, order them to be turned out of possession. This action is speedily decided, and is attended with comparatively little expense. All actions regarding arrears of rent, mismanagement, and removals are tried, in the first instance, in the Sheriff-court without a jury, and are very cheaply and expeditiously decided.

It is to this system that Scotland owes a very large share of her prosperity. It has prevented farmers from providing for their children by the subdivision of their farms; and has, consequently, forced these children to become comparatively considerate, industrious, and enterprising, and to depend for their means of support on something else than the occupancy of a petty patch of land. Had such a system been adopted in Ireland a hundred years ago, the condition of the inhabitants would have been very different indeed from what it now is; and its adoption still seems to us to be by far the best means that it is possible to resort to, for arresting that splitting of farms and multiplication of beggars—for these operations are really synonymous—that is now going forward in that country.

The law of Scotland, it will be observed, though, as a general rule, it interdicts both subletting and assigning, does not prevent a landlord granting a lease which shall convey these powers to the tenant. In Scotland, indeed, such a lease is very rarely granted; but in Ireland, the practice of subletting must, in the actual circumstances of the country, be acted upon to a very considerable extent. The vast majority of her cultivators are comparatively destitute of capital, and are as savage, turbulent, and unruly, as they are poor and miserable. In consequence, if a landlord either wishes, as every gentleman naturally must, to have any tolerable security for his rent, or to avoid the disagreeable and often dangerous task of inspecting and controlling the proceedings of such tenants, he has no resource but to let his estate to a middleman. It is useless, therefore, to declaim against a practice which necessarily, and indeed unavoidably, arises out of the state of society in Ireland. No wise legislator will ever attempt directly to abolish that which has its foundation in the nature of things, but will endeavour to free it from abuse, and to make it as generally advantageous as possible.

But, although we are thus of opinion that it would be wrong to attempt to prevent subletting altogether, we are no less firmly of opinion, that the law with respect to this practice in Ireland calls loudly for alteration, and that no inconsiderable portion of the misery of that unhappy country has been occasioned by its injustice and impolicy. By the law of Scotland, a landlord who has let a farm to an individual to whom he has given a power of subletting, is not entitled to distrain the goods of such subtenants as have duly paid their rents to the principal tenant, should the latter become bankrupt while in arrear to him. (*Bell on Leases*,



3d ed. p. 297.) And he is entitled to distrain the goods of those who have not paid the principal tenant, to the extent only of the subrents. This rule is bottomed on the sound principle, that a landlord has no right to claim the goods of subtenants, to whose being on the farm he has himself consented, as security for rent due by the principal tenant to him; that it is the principal tenant only who is his debtor; and that the bankruptcy of such principal tenant should not prejudice the interests of those who have made him a *bonâ fide* payment of rents he was entitled to receive. In England, however, a different rule has been adopted; for, according to the law of that country, a landlord is entitled, whether he has consented to subletting or not, to distrain the goods of subtenants, even though they may previously have paid their stipulated rent to the principal tenant, in the event of the latter falling in arrear. That such a rule should have so long obtained in England, can only be accounted for from the practice of subletting being there, generally speaking, extremely rare; and from the English being thus, in a great measure, ignorant of its gross injustice and ruinous tendency. But in Ireland the case is altogether different. The law of England is there applied to a country *where the practice of subletting is universal*, and it has, in consequence, been productive of the most disastrous results. In Ireland there is frequently a gradation of intermediate tenants interposed between the landlord and the cultivator; so that though the latter may have paid every shilling of the rent due by him to his immediate superior, he is liable, in the event either of his bankruptcy, or the bankruptcy of any of the other intermediate holders, to have whatever stock or property he is possessed of driven to the *pound*, and sold *to pay their debts!* We question whether the law either of Morocco or Algiers sanctions any more flagrant and shameful abuse. Security of property is the foundation of all industry, wealth, and civilisation: but so long as this monstrous system is maintained, security must be unknown to the cultivators of Ireland. Can you expect any improvement to be made—can you expect that any individual will either exert himself to fertilise the land, or lay out capital upon it, when the whole fruits of his industry and toil may at any time be seized upon, under a system of legalised robbery, by one to whom he owes nothing?

The atrocious murder of the Franks, together with many of the outrages of which Ireland has been so long the theatre, have been the result of this disgraceful system. On this, as on all other points of importance, we are happy to be able to corroborate our own statements by the unexceptionable authority of Mr. Wakefield. “In Ireland,” says he, “six months’ credit is generally given on rents, which is called ‘*the hanging gale*.’ This is one of the great levers of oppression by which the lower classes are kept in a kind of perpetual bondage; for as every family almost holds some portion of land, and owes half a year’s rent, which a landlord can exact in a moment, this debt hangs over their heads like a load, and keeps them in a continual state of anxiety and terror. If the rent is not paid, the cattle are driven to the pound; and if suffered to remain there a certain number of days, they are sold.—*This I have frequently seen done after the occupying tenant had paid his rent to the middleman, who had failed to pay it to the head landlord.* The numerous instances of distress occasioned by this severity, which every one who has resided any time in Ireland must have witnessed, are truly deplorable; and I believe them to be one of the chief causes of those



frequent risings of the people, under various denominations, which at different times have disturbed the internal tranquillity of the country, and been attended with atrocities shocking to humanity and disgraceful to the empire.” (Vol. I. p. 244.)

It would be easy to quote a thousand similar passages from the best works on Ireland, to show the effects of this law ; but they are wholly unnecessary. Every one must see that, so long as it is suffered to exist, there can be neither security, nor peace, nor prosperity ; and that it is the imperious duty of government to take immediate steps for having it totally changed, and made to approach very closely to the law of Scotland. For this purpose it should be enacted, that henceforth every lease is to be considered, unless an express exception be made in it, as *real property descending to the heir-at-law of the tenant, to the exclusion of every other individual, and as taking from the tenant all power to assign such lease, or to sublet either the whole or any portion of the farm ; and it should be further enacted, that in the event of a landlord choosing specially to empower a tenant to assign or sublet, either by a clause in the lease to that effect, or by a power subsequently given by a deed properly attested, such landlord shall not be entitled to distrain the goods of subtenants, for bonâ fide payments of rent made by them to the principal tenant, in case of the bankruptcy of the latter, while in arrear to him.* Such a law would interpose a powerful check to the splitting of farms ; while it would not only give security to the cultivator, and protect him from injustice and oppression, but would also have the effect to render the landlords infinitely more attentive than they now are to the character and qualifications of their principal tenants. At present, an Irish landlord is but too apt to let his land to the middleman who offers him the highest rent, trusting, should he become insolvent, to his recourse on the subtenants ; so that, by taking away this recourse, you will force the landlord to attend to other considerations besides the mere amount of rent promised him by the middleman : and respectable tenants will then meet with that encouragement and preference to which they are entitled, but which they have hitherto experienced from a few only of the landlords of Ireland.

It would not, however, be enough to enact, that all subdividing and subletting, which have taken place without the consent of the landlord, should be illegal. Fully to counteract this destructive practice, and to avoid all litigation on the subject, it should be enacted, that *every principal tenant, who presumed either to sublet or subdivide the whole or any portion of his farm, without a clause authorising him to do so being inserted in his lease, or without the consent of his landlord, previously asked for and given in writing, should, by doing so, forfeit his lease ; and that it should be made imperative on the Quarter-sessions, before which such cases should be tried, to grant a writ of ejectment, both against such principal tenant and his subtenant, or subtenants, provided the landlord applies for this writ within twelve months after the subdivision of the farm has actually taken place, or within twelve months after the subtenant has been admitted to possession.* And, in order to induce the landlord to avail himself of this power, and at the same time to prevent the tenants being kept in a state of insecurity, it should be further enacted, that, *in the event of the landlord not applying to have the tenants ejected from the farm, within the above specified period of twelve months, after the subdivision or sublease had taken place, he should be held as waving all objections to their title, and that their right to their possessions during the currency of the lease should no longer be questionable, and that the landlord should have*



*no power to distrain the goods of such subtenants for bonâ fide payments of rent made to the principal tenant.* A law of this description would give effect to contracts, and would secure and protect the just rights and property of all parties. It would make it the obvious interest of the landlords to exert themselves effectually to check that subdivision of farms, which is the bane of Ireland; while no tenant could justly complain that he had been deprived of a lease whose plainest stipulations he had attempted to defeat and elude.

Every intelligent Irish gentleman with whom we have conversed on the subject, has readily and fully admitted all the evils of the existing law, and has not hesitated to say that the alteration of that law, in the way we have now suggested, would be productive of the greatest possible advantage. The only objection we have ever heard a landlord make to it was, that the habits of the people run so strong in favour of subletting, and subdividing their farms among their children, that no jury would ever give effect by their verdict to such a law; and that, even though this difficulty could be got over, it would be impossible to carry the verdict into execution! If this were a really true representation, the situation of Ireland would be hopeless indeed; but we are satisfied that it is, to say the least, very greatly exaggerated. We confess we see no reason whatever, why the intervention of a jury should be required in such cases in Ireland any more than in Scotland. All questions connected with leases might be cheaply, and expeditiously, and most advantageously tried at the Quarter-sessions, in the Civil Bill Court, before the assistant barrister, without a jury. They are not questions that could involve any difficulty, or where there could be any room for a jury to exercise their discrimination. On evidence being produced to show that a farm had been subdivided or sublet, it ought to be made imperative on the Court, in the event of the tenant not being able to produce a lease, or a written authority from the landlord authorising him to subdivide or sublet, immediately to grant warrant for the ejection of such principal tenant and all his subtenants from the farm. And with respect to the second point, or the alleged inability to carry such a warrant into execution, we contend, that Government must not permit the supremacy of the law to be questioned in a matter of such vital importance. If ministers really mean to prevent Ireland from becoming a vast den of savages, or to stop the progress of pauperism and atrocity, they must, at all hazards, put down that system of intimidation on which the people have been accustomed to act. The peasantry could not be long in perceiving that such a law as we have proposed was calculated, in a peculiar manner, to protect them from oppression, and to promote their advantage; and if *really impartial* magistrates, backed by a sufficient civil and military force, were employed to superintend and enforce its uncompromising execution, we know enough of Ireland to be able to say, that, in a very short time, all violent opposition would cease, that its peaceable operation would be speedily secured, and that the greatest possible boon would, in consequence, be conferred on the country.

The opposition of the judges and lawyers of Dublin to the change we have proposed, may, we are afraid, be reckoned on. They will not fail to represent, in high sounding and solemn terms, that the adoption of such a law would be a dangerous innovation; that it would occasion a very great change in the succession to property; that it would be casting an undeserved reflection on the juries of Ireland; and be giving



too much power to inferior judges and magistrates. Such commonplace objections will not, we trust, be allowed to retard the progress of this truly important measure. That the adoption of the law we have suggested would effect a very great change, is most true; but it is no less true that the change is imperiously required, and would be most beneficial. Is the old womanish fear of innovation, to induce us to continue a system for ever which has covered Ireland, from one extremity to the other, with mud cabins and beggars? — which exposes a subtenant to be distrained for a debt not due by him, at the same that it nullifies every lease, and incapacitates a landlord from protecting his property from subdivision and ruin? We would not dispense with juries in the trial of cases with respect to leases, were it not that, under the system we have recommended, they would be wholly useless, there being no room for discrimination or modification. What is every day done in Scotland by a sheriff-substitute, who is commonly bred an attorney, without a jury, may surely be done in Ireland by an assistant barrister. We therefore most earnestly implore the landlords of Ireland and the Government not to be deterred from proposing and passing some such law as this, by the representations of lawyers, naturally attached to old customs and prejudices, and afraid lest it should lessen, as it certainly would, the business in the courts. The effects of the present law of Ireland are palpable and glaring — they are seen in the subdivision and ruin of estates, in the wretched condition of agriculture, in the impoverishment of farmers, and in the misery and excessive numbers of the peasantry of that country. The effects of the system we have taken the liberty to propose are equally palpable: they are seen in the extensive farms and improved estates, in the flourishing condition of agriculture, in the increasing wealth of the farmers, and in the comfort, happiness, and moderate numbers of the peasantry of Scotland! Let then the system which has been productive of so much misery be subverted, and the system which has been productive of so much good be substituted in its place. We will venture to say, after having reflected long and anxiously on the subject, that Parliament can adopt no measure that would effect a more salutary and desirable reformation in Ireland. The further subdivision of farms, and the increase of population consequent upon it, would be effectually checked; the rights of proprietors, now left without any efficient protection, would be secured; subtenants would no longer be liable for the debts of others; and as confidence grew up, proprietors and farmers would readily undertake improvements that will never be thought of so long as the present miserable system is supported. We know that this subject will certainly be agitated in Parliament during the present session; and if the landlords of Ireland be not wholly and perversely blind to *their own*, as well as their country's best interests, they will give their unanimous, zealous, and effectual support to the measure we have recommended. The existing system is subversive of all their just rights; it has deprived them of all control over their property; and if suffered to run its full course, it will most assuredly entail universal beggary on the occupiers of their lands, and end by rendering them unable to pay a single shilling of rent.

3. The system according to which freeholders are created in Ireland, has had a very powerful influence on the splitting of farms and the increase of population. The qualification of a freeholder is the same in Ireland as in England — a clear *forty shillings'* interest for life; but as it is customary in Ireland, and fortunately not in England, to insert lives



in all leases, freeholders are created by thousands in the former country, without being actually possessed of any property whatsoever. Thus, when an Irish landlord wishes to extend his political influence, he immediately sets about subdividing his estate, and lets it in small patches, frequently not exceeding the size of a potato garden, to cottiers for life, who thus become invested with the elective franchise ! In consequence of this system, Ireland has become a perfect freeholder, as well as pauper, warren. In some counties a very near approach is made to the system of universal suffrage ; and that system has been productive of the very results which every man of sense might have foreseen would, in the circumstances of the case, necessarily flow from it. The landlords have exerted themselves to secure and extend their political influence ; and they have, in this respect, managed so skilfully as to get the perfect and thorough command of the occupiers of their estates ; who are, in point of fact, just as much under their control as their own body servants. It is true that, to attain this object, they have adopted a system ruinous to the country, and which must also, for that very reason, prove ruinous to themselves. Still, however, we do not see how the landlords can justly be blamed for what they have done. It must always be desirable to be possessed of political influence ; and so long as the law of the land declares that the extent of that influence shall be measured by the number of *forty shilling* tenants which a landlord can march to the poll, it would be worse than absurd to expect that he should not endeavour to manufacture them. Experience of the remote effects of this system may ultimately indeed convince him that he has mistaken his real interests ; and that he has lost more by parcelling out his estate into lots to be occupied by beggars, than he has gained by his increased political importance in the county. But before experience can teach him this great lesson, the mischief is done ; the division of his estate has been effected ; its population has become excessive, and serious obstacles oppose the return to a better system.

So long as Catholics were excluded from the exercise of the elective franchise, the system of manufacturing freeholders, owing to the thinness of the Protestant population of the country, could be but little acted upon. But since 1792, when Catholics were permitted to exercise this privilege, freeholders have been manufactured and voters created, to an extent of which luckily the people of Britain can have no just idea.

“ The passion for acquiring political influence prevails,” says Mr. Wakefield, “ throughout the whole country ; and it has an overwhelming influence upon the people ; *to divide, and subdivide, for the purpose of making freeholders, is the great object of every owner of land ;* and I consider it one of the most pernicious practices that has ever been introduced into the operations of political machinery. It reduces the elective franchise nearly to universal suffrage, to a population who, by the very instrument by which they are made free, are reduced to the most abject state of personal bondage. I have known freeholders registered among mountain tenantry, whose yearly head rent did not exceed 2s. 6d. ; but living upon this halfcrown tenure, were obliged to swear to a derivative interest of 40s. per annum. — *This right, instead of being an advantage to the freeholder, is an excessive burden, as he is obliged to attend elections at the command of the agent, often with great inconvenience ; and is ordered to vote for the object of his landlord’s choice, with as little cere-*



*mony as the Jamaica planter would direct his slave to the performance of the meanest offices.*" — Vol. ii. p. 301.

To put an end to this miserable system, and to rescue the peasantry from the degradation of being made mere offensive weapons, wielded by the rival candidates at elections for the annoyance of each other, without the smallest regard to their feelings or wishes, it appears to us, that the best way would be to confine the elective franchise to persons actually in possession of freehold or copyhold property of the real value of 20*l.* or 30*l.* a year, and to the occupiers of farms paying 50*l.* or upwards of rent. By an arrangement of this kind, the proprietors of small estates, and the really independent class of freeholders, would attain that salutary and much wanted influence and consideration, which they have never hitherto enjoyed in Ireland; an obvious inducement would be created to consolidate the very small farms; and it would henceforth be impossible for a few noblemen to regulate the elections exclusively by the controlled suffrages of their serfs. Such a plan might be easily adopted, and it would be productive of the most extensively beneficial effects.

Such seem to us to be the circumstances that have principally led to the excessive increase of population in Ireland, and the measures by which they may be most easily, safely, and effectually counteracted, and the condition of the mass of the people lastingly improved. We have ventured to recommend the adoption of these measures, because we feel confident, as well from experience as from theory, that they would prove signally advantageous. But whether they are adopted or not, it is at all events obvious, that in the event of the present ruinous system being continued much longer, the destiny of Ireland will be irrevocably fixed. According to the scale at which population has been advancing in Ireland since 1784, the *seven* millions of 1821 must already be very little short of *eight* millions! Nor will this frightful progression cease, if left to itself, until the whole country has been parcelled into potato gardens, capital been annihilated, and the curse of poverty rendered universal. There is not, therefore, a moment to be lost. If the whole energies of Government be not speedily set in motion and steadily directed to check the torrent of pauperism, it will prove too strong for them, and the reign of filth, beggary, and outrage will for ever be secured.

The majority of our readers will, we apprehend, hardly conceive it possible that any one could, at this time of day, have seriously proposed the introduction of the English poor-law system into Ireland, as a means of arresting the spread of pauperism. But so it is. Such a proposition has been made, and has been favourably entertained, not by the declaimers at Catholic boards only, but by persons in high and responsible situations! It is this circumstance, and this only, that induces us to bestow a moment's attention on this extraordinary proposal. If we were really desirous of immediately consummating the ruin of Ireland, of instantly destroying the little capital she is possessed of, and of eradicating whatever of prudence and consideration may be found in any class of her inhabitants, we could do nothing better than adopt the scheme in question. Is there not already enough of thoughtlessness, prodigality, idleness, and vice in Ireland, without passing a law declaring that the parish must provide the means of support for all who cannot support themselves, without exception? The non-employment



of the poor is unquestionably an evil of the first magnitude; but instead of lessening this evil, you will most certainly increase it in a tenfold proportion, by attempting to force employment by means of poor-laws. The non-employment of the poor must, in all cases, proceed from one or other of the following causes; viz. either, *first*, from a disinclination to work; or, *second*, from the want of capital to employ them; or, *third*, from the want of demand for the products of industry. Now, if the non-employment of the poor proceeds from the *first* of these causes, or from *disinclination* to labour, it is obvious they have no just claim on the bounty of others. A very high authority has said, that *those who do not work ought not to eat*; and the pressure of necessity will, sooner than any artificial remedy, cure them of their idleness, and force them to be industrious. It is true that the law which says they shall be supported, says also they shall be *compelled* to work. Legal constraint is, however, always attended with too much trouble, violence, and ill-will, to be productive of zealous and steady exertion. The fear of want, and the desire to save and accumulate a little stock, as they are the most natural, so they are also the most powerful motives to unremitted industry. The slave must be compelled to work, but the freeman should be left to his own judgment and discretion; should be protected in the full enjoyment of *his own*, be it much or little, and punished when he invades his neighbour's property. If we recur to those base motives which influence the slave, and substitute compulsion in the room of self-interest, we poison the very spring and fountainhead of industry, and do all that we can to render the masters tyrannical, and the workmen idle and profligate.

If, on the other hand, the non-employment of the poor proceeds from the *second* cause we have specified, or from *the want of capital to set them to work*, it is plainly impossible that this deficiency can be supplied by the fiat of the legislature, or the resolutions of overseers. All that such interference can do, and all that it ever does, is to *change the natural distribution of the already existing stock of the country* — to take it from those into whose hands it would naturally have come, to force it into the hands of others, and thus to increase poverty in one class of the people to as great an extent as it diminishes it in another.

But, supposing the non-employment of the poor to proceed from the *third* cause we have specified, or from *the want of demand for the products of industry*, how is this to be remedied by setting them to work? It is obvious, that the mere levy of a tax for the maintenance and employment of the poor cannot add to the income of the country, or be a means of increasing the demand for their products. And it is quite evident, that unless this demand can be increased, the taking of a portion of the income of the wealthier part of the community to form a fund to set the unemployed poor to work, can have no other effect but to increase the glut of commodities, and to drive the independent and industrious part of the poor from their employment, by the forced competition of those who are dependent, and a burden on the public.

In every point of view, therefore, in which this subject can be considered; — whether the non-employment of the poor proceeds from disinclination to work, from the want of capital to employ them, or from the want of demand for the products of industry, a compulsory assessment for their employment and support seems to be equally inexpedient and improper. In the *first* case, such a provision is a direct encouragement to the idleness and profligacy of the vicious part of the

community; in the *second*, it causes an artificial, and, consequently, a *disadvantageous* distribution of the national capital; and, in the *third*, it adds to the cause of distress, and throws those who are not paupers out of employment. It would not really be one jot more absurd to attempt to improve the health of the citizens of Dublin by poisoning their wells, than it would be to attempt to relieve the distresses of the people of Ireland by the establishment of such a system.

There have occasionally been in England, rich and industrious as she is, about a *tenth* of the entire population depending partly on parochial relief. But if the system of compulsory provision were once established in Ireland, we should not have *one tenth*, but *seven or eight tenths* of a population of *eight* millions depending principally on this resource. But taking the proportion of paupers so low as only *one fourth*, and supposing that each individual were only to receive a pittance of *2d.* a day from the rates, still the aggregate charge would amount to upwards of *SIX MILLIONS* a year, being about a third more than the entire produce of taxation in Ireland, and constituting a charge of *15s.* an acre on the *eight* millions of acres of cultivated land she is supposed to contain! With such a bounty held out to pauperism, population would be powerfully stimulated, and the whole rent of the land would be speedily absorbed. We do not know, after all, whether the landlords of Ireland will sanction this scheme; but if they do, it will be the only instance in the history of the world, of a numerous and powerful class voluntarily consenting to ruin themselves, in order the better to complete the ruin and degradation of their country.\*

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\* The Edinburgh Reviewers have abandoned the opinions they formerly held on the perplexing subject of the Poor Laws. They are now inclined to try the experiment of a compulsory provision for the poor in Ireland, in opposition to the reasons given against that measure by the writer of this Essay. The Reviewer of Sadler's work on Ireland, probably Mr. M'Culloch, expresses his sentiments on the proposition of Mr. Sadler in the following terms:—

“With respect to the remedies which Mr. Sadler has proposed for the alleviation of that misery, which even he, though not very consistently, admits exists in Ireland, they are, with one exception, undeserving of any serious attention. The exception to which we allude is the proposal to introduce a compulsory provision for the support of the poor. This subject is confessedly embarrassed with very formidable difficulties; and means are perhaps still wanting for coming to a perfectly accurate conclusion with respect to it. On the whole, however, we are inclined to approve of the proposal. Most certainly we are not disposed to recommend it for the reasons assigned by Mr. Sadler, but for precisely opposite ones. We formerly endeavoured to show (No. 94. art. 2.), that though, by giving the poor a legal claim for support, you in so far encourage their improvidence, and tempt them, by relying on adventitious assistance, to relax in their industry, and to multiply their numbers beyond the real demand for them, the experience of England has proved, that the efforts of the landlords, and of the wealthier classes of the community, to keep down the rates, more than counterbalance these tendencies; and have, consequently, restrained the increase of population and pauperism within narrower limits than it would otherwise have attained.

“So long as the poor are left to depend on the unconstrained bounty of others, for a resource in periods of exigency, the landlords take comparatively little interest in their situation, in the increase of their numbers, or in the administration of the provision made for them. But the moment the poor acquire a legal claim upon land, and other tangible property, for support, it becomes the obvious interest of every individual possessing property to see that the funds destined for the support of the poor are properly administered, and to exert himself to prevent their undue increase. It may at present seem immaterial, perhaps, to an Irish



*Education.* — On the motion of Sir John Newport, on the 25th March last, the House of Commons unanimously voted an address to his Majesty, to issue a Commission for the purpose of enquiring into the state of Education in Ireland, and reporting on the same to the House. Such a Commission has in consequence been issued; and the character of the Commissioners (Mr. Frankland Lewis, M. P., Mr. Glassford, and Mr. Blake) is a sufficient security that the enquiry will not be a sham one, but that the whole subject will be patiently investigated and probed to

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landlord, whether he allow a parcel of mud huts to be erected on some neglected portion of his estate; for he may imagine, that in the event of his afterwards wishing to pull down these huts, he has only to order their occupiers to quit: but if the mere residence of such persons on his estate for a limited period gave them and their families a legal claim for support in all time to come, the landlord would, in order to protect himself from this indefinite responsibility, refuse to allow the huts to be erected, or the occupiers to acquire a settlement. To suppose that he should act otherwise, would be to suppose that the protection of his property was indifferent to him. We showed, in the article already referred to, the powerful influence that this principle has had in England; and we have not the least doubt, that had a system of poor laws, similar to that which has been established in England, been established for the same period in Ireland, it would, by giving the landlords and gentry of the country a deep pecuniary interest in the repression of the numbers of the poor, have powerfully tended to prevent that splitting of farms, and excessive increase of the population, that are the prime causes of all the evils of Ireland. At the same time it must be acknowledged, that the question as to the expediency of introducing poor laws, in the present situation of Ireland, when it is so overrun with an unemployed and beggarly population, is very different from the question as to the probable operation of these laws, had they been introduced when the population was comparatively thin. However, we should still be inclined to think, for the reasons now stated, that their introduction would be advantageous, provided there be in Ireland the means of administering them so that they may be made productive of those restraining effects, in which, as it appears to us, their advantage mainly lies; and hence the primary question is, Do means exist in Ireland, or can they be devised, for administering a system of compulsory provision for the poor, so that it could be prevented from becoming a fresh source of improvidence and idleness? If no such means either exist or could be devised, the introduction of poor laws would be a most destructive measure, and would speedily lead to the annihilation of the existing capital of the country. But it is not at all likely that such means could long be wanting. The landowners of the country would immediately perceive that the preservation of their property depended on their being able to devise checks to arrest the torrent of pauperism. Every landlord would then, in pursuing his own obvious interest, set about adopting the most vigorous measures for lessening the present population on his estates, and for preventing its undue extension in future; and he would, of course, be inclined to join with his neighbours in any scheme that might seem best calculated to forward his object. We do not, we confess, think that it is possible otherwise to root out the inveterate habit of splitting land, or to impress the gentry of that country with a sufficiently strong sense of the mischievous consequences resulting from that practice, and from the too great multiplication of cottagers and occupants. A great deal, no doubt, must depend on the mode of administration; but when it is for the advantage of all persons of property that this mode should be made effectual for the suppression of pauperism, and the repression of population, the fair presumption is, that whatever defects might attach to it in the first instance, would speedily be rectified; and that the whole of the middle and upper classes would be formed into a combination to arrest and diminish the spread of population and beggary.

Such, in a few words, are the principal reasons which lead us to support the proposal, now so much advocated, for introducing poor laws into Ireland." — See vol. xcvi. p. 314.



the bottom. When the Report of the Commissioners is before the public, we shall enter on a full consideration of this most important subject: for we think with Mr. John Smith—a sincere and intelligent friend to Ireland, and to all that can elevate the character and promote the happiness of his fellow-men,—“That a government which does not provide for the instruction of its subjects, has no right to render them amenable to a bloody and ferocious code of laws.” (Mr. Smith’s Speech, 25th March 1824.) In the mean time, however, we may observe, that the offence taken by the Catholic clergy at some statements in a speech of Mr. North’s, relative to the state of education in Ireland, was extremely unreasonable. If Mr. North erred in saying that infamous publications were used in many of the Catholic schools, he erred in common with all the authorities on Irish affairs, and in common with many most respectable Catholics. Dr. Bell, in his Essay *On the Condition and Manners of the Peasantry of Ireland*, says, that the books used in the Catholic schools were such as to give scope and activity to the worst passions, and tended powerfully to prevent the peasantry of Ireland from becoming good subjects. (p. 40.) In speaking of education, Mr. Wakefield says, “The only thing connected with it, the remembrance of which gives me pleasure, is the desire manifested to obtain it. *As to the manner in which it is conveyed, I cannot speak in terms of sufficient reprobation.*” (Vol. ii. p. 398.) Mr. Wakefield subjoins, from Mr. Dutton’s Survey of Clare, a list of the common school and cottage classics of Ireland, abounding in books of the most flagitious description. The intelligent Catholic author of *Thoughts and Suggestions on the Education of the Irish Peasantry*, distinctly states, that the poor of his communion are entirely destitute of religious instruction, and that the schoolmasters are as bad as possible. (pp. 12. 41, &c.) And, not needlessly to multiply references, we shall only further mention, that Mr. Spring Rice publicly stated, in his place in the House of Commons, on the 22d of April 1822, that he had been in a large school in the county of Cork, where the *text-book* for the instruction of the young was the life of a notorious robber—the Captain Rock of some fifty years ago! And Mr. Rice farther stated, that he knew many places in which books of the same character, but of a *still more objectionable tendency*, were used! \* Disgraceful, therefore, as Mr. North’s statement certainly is to the Catholic clergy, it is, we are afraid, idle for them to attempt to refute it. We do not presume to say that they have actually encouraged the use of such books; but we do say that it is quite impossible to conceive they could be ignorant of their being used, and that, considering the influence they have over their flocks, had they displayed a tenth of the zeal for their suppression they have so frequently displayed on the most trifling occasions, they would long since have been wholly discarded. They may object, and, for any thing that we know, justly too, to the reading of the Bible in schools. But if they will not allow the Bible to be used as a school-book, it is their duty, if they wish to save their flocks from beggary and the gallows, to take care that their schools should be supplied with books that will infuse sound principles of morality into the young mind. If they neglect this duty, Government must interfere. So long as those who are taught, are taught only to admire deeds of rapine and plunder, we may expect to find the Irish cottiers of the present day the genuine representatives of the Kernes

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\* See also an excellent article on Ireland, in the first Number of the *Inquirer* (p. 42.), generally ascribed to Mr. Rice.



and Gallowglasses of the days of Spencer — of those “who did never eat their meat till they had won it by the sword; who made the day their night, and the night their day; who did light their candle at the flames of their foemen’s houses; and whose music was not the harpe nor layis of love, but the cryes of the people, and the clashing of armor.”

*Commerce and Revenue.* — We are happy to have to say, that a most important and beneficial change has been effected in these departments since the date of our former article, and that most of the suggestions we then made have been adopted. The Commissioners of Enquiry into the Commerce and Revenue of Ireland have discharged their duty to the public with a zeal and ability, and have displayed a fearlessness of giving offence to interested and powerful individuals, worthy of every commendation; and ministers are also justly entitled to the highest praise, for the vigour they have shown in following the plans of these Commissioners. The absurd and complicated system of duties and regulation, known by the name of *Union duties*, which, as we formerly showed, went far to suppress all trade in manufactured goods between Great Britain and Ireland, has been, with some few exceptions, entirely abolished. Whole boards of commissioners, ignorant of their business, and only appointed because of the patronage they could command, have been unceremoniously dismissed; almost every Irish Act of Parliament, with respect to the collection and regulation of the revenue, has been repealed; and the whole business of the excise and customs has been transferred to London. The bill introduced by Mr. Robinson, and passed into a law, for reducing the duty on spirits from 5s. 6d. to 2s. a gallon, and for authorising the use of comparatively small stills, is by far the greatest boon conferred on Ireland since the Union. It has gone far to put down smuggling, and its consequent train of evils; while, by increasing the consumption of legally distilled spirits, it has been productive of a considerable increase of revenue. We are truly glad to have to state these things. They are proofs of a good spirit prevailing in the Cabinet; and the ease with which they have been effected, shows what may be done for Ireland, when government determines to put down abuse. But if ministers stop here, what they have done will be really of little or no value. If they do not remove those deeper seated and more fruitful sources of contention, hatred, and crime which we have now pointed out, the reforms they have effected will have but an inconsiderable influence in arresting the march of degradation.

But many reforms still remain to be effected, even in the financial and commercial departments. The excessive duties laid on tea, coffee, sugar, foreign wines and spirits, tobacco, and many other articles in general demand, have had the effect, by adding proportionally to the price of these articles, and placing them beyond the reach of the peasantry, to extinguish the desire to possess them in their minds, and thus to render them disposed to vegetate without repining in poverty and wretchedness. The almost universal want of all ambition to rise in the world, to acquire any share of the comforts and conveniences of life — forms one of the most powerful obstacles to the introduction of a better order of things in Ireland: and there are no means so effectual for exciting such an ambition, and for rendering the peasantry anxious to improve their condition, and to mount in the scale of society, as an effectual reduction of the duties laid on all articles in general demand. Such a reduction, by lowering the price of a great variety of useful and agreeable commodities, would afford new motives to stimulate, and new



comforts and conveniences to reward, the industry of the peasantry. Those who are indolent—and this is notoriously the case with the Irish—will never become industrious, unless industry brings *visibly* along with it a proportional increase of enjoyments. Wherever labourers find it is impossible for increased exertion to make any material addition to their comforts and conveniences, they invariably sink into a state of sluggish and stupid indifference, and content themselves with the coarsest and scantiest fare. But the desire to rise in the world, and improve our condition, is deeply seated in the human breast, and can never be wholly eradicated.—And whenever labour has been rendered more productive, and a number of new conveniences and enjoyments made attainable by the labourer, indolence has never failed to give way to exertion: a taste for these conveniences and enjoyments has gradually diffused itself, increased exertions have been made to obtain them, and ultimately it has been thought discreditable to be without them. Nor would such a reduction of duties as would be productive of these effects occasion the least diminution of revenue. On the contrary, it is certain, as well from theory as from experience, that it would, by increasing the quantities of the articles consumed in a geometrical proportion, have the effect to add very greatly to its amount.

A few additional measures are still wanting, to place the commercial intercourse between Great Britain and Ireland on that footing of absolute freedom on which it should stand. In consequence of the duty on foreign timber imported into the two countries being different, of the excise duties on spirits being higher in England than in Ireland, and of there being no excise duties in Ireland on glass, printed goods, soap, candles, vinegar, and wine, it is still necessary to put customhouse officers on board every vessel engaged in the trade between the two countries, when she comes into port, and to search her cargo. This is attended with very great inconvenience, hardship, and expense; and in order to obviate it, the duty on all these articles ought to be made the same in both countries.

We shall take an early opportunity to show, that the timber duties now payable in Great Britain are not only oppressively high, but that they are imposed on the most impolitic and absurd principles that can well be imagined. With respect to glass, the case is but little different. To show the mode in which the duty on it operates, it is perhaps enough to state, that the gross produce of the glass duties in 1823 was 962,709*l.*, of which no less than 415,078*l.* was repaid in drawbacks! The injury done to the manufacturer by the operation of such a duty is obvious. If it were effectually reduced, the manufacturer would gain though no drawback were allowed; while the revenue would gain by the vast increase of consumption that would take place in Great Britain, and by the extension of the low duty to Ireland, and the consequent stop to the smuggling of glass from that country.

The duty on printed cottons is liable to the same objections as the duty on glass. Its gross produce, in 1823, amounted to 1,811,919*l.*, of which 1,146,750*l.* was drawn back on exportation. If a duty is to be laid on the cotton manufacture, the proper plan would be to lay it on the wool; and by keeping it so low as not materially to affect the price of the goods, to avoid the necessity of granting a drawback, or of first paying a million sterling into the hands of the customhouse officers, and then back again to the merchants.

The slight increase of duty that might take place in Ireland on a few



articles, in consequence of the equalisation of the duties payable in the two countries, could not justly be objected to. For the benefits arising from the unrestricted freedom of intercourse between the two countries, that would take place in consequence of this equalisation, would infinitely overbalance the injury arising from the increase of duty; at the same time that almost all the arguments in favour of the reduction of duties on articles in general demand apply with nearly equal force to Great Britain as to Ireland.

The bounties on the exportation of coarse linen from the United Kingdom amount to about 300,000*l.* a year. Mr. Robinson proposed, last session, immediately to repeal these duties; but he was induced, in consequence of the representations of the Irish members, to swerve from his own better purpose so far as to consent to their being repealed at the rate of 10 per cent. per annum, so that they will still cost the public 1,500,000*l.* But while the Irish members are thus taxing the public for the support of the coarse linen manufacture, they are themselves its greatest enemies; for, by enforcing the provisions of a linen board act, preventing the sale of yarn not wound on a certain description of reel, they prevent the importation of foreign yarn into Ireland, though its price is generally from 25 to 30 per cent. less than Irish yarn, and thus lay the manufacture under a disadvantage which is not nearly balanced by the bounty. Government will, no doubt, interpose to remedy this abuse.

We cannot conclude this article, extended as it now is, without entreating all who take an interest in the subject, steadfastly to oppose every scheme for providing employment for the poor of Ireland, by grants of money, or by the aid of bounties on particular articles. Such palliatives and anodynes may lengthen, but they can never cure, a disease which has fastened on the vitals of the country, and vitiated its whole public economy. The case of Ireland is too desperate to be treated in this way. When the measures we have suggested for allaying the violence of religious and party contentions, for attaching the inhabitants to government, and for maintaining the peace of the country and the security of property, shall have been adopted, then, but not till then, capital will flow to Ireland as a place of advantageous investment. But until these things have been done, the *forced* transmission of capital to that country, by the agency of government, will merely act as a stimulus to population, and will thus really aggravate all the evils it was designed to alleviate. It is not by such puny measures — by the miserable quackery of bounties and forced loans — but by drying up the sources of disaffection, misery, and crime, that Ireland is to be improved. It is indeed the merest delusion possible, to suppose, so long as the various causes of outrage and degradation we have specified are suffered to spread their roots and scatter their seeds on all sides, that it is in the power either of individual or of national charity to arrest the tide of ruin that is now deluging the country.

We have thus, for the second time, endeavoured to show, by a minute and detailed enquiry into the state of Ireland, that the miseries and atrocities which afflict and disgrace that unhappy country are not the result of uncontrollable causes, but that they all have their origin in, and are, in fact, the natural and necessary consequences of vicious political and civil institutions and misgovernment. The question, therefore, which parliament and the country are now called upon to decide, and none more important ever engaged their consideration, is, whether

they will continue, at all hazards, to support the institutions and system of government now established in Ireland, and attempt to put down disturbances by the gibbet and the sword, or set about making a thorough reform of the abuses which have filled her with misery and crime, and endeavour to bind her inhabitants to their interests by a sense of gratitude for benefits received and advantages conferred? The statements we have laid before our readers, as well as every principle of justice and expediency, and the experience of centuries, show, beyond all controversy, how this question ought to be decided. As Englishmen — as lovers of equal and impartial justice — we owe reparation to Ireland for the wrongs she has suffered at our hands; and we owe it for our own sakes. It depends entirely on our future conduct, whether Ireland is to be rendered our best friend and ally, or our most dangerous and mortal foe. If we treat her with kindness and affection, if we redress her wrongs, and open her a path to wealth and prosperity, the Union will cease to be nominal, and the two countries will be firmly and inseparably united: but if we obstinately persevere in our present system, if we continue to treat *six-sevenths* of her people as an enslaved and degraded *caste*, and to cherish all the gross and scandalous abuses which have cast them into the depths of poverty and vice, they will certainly endeavour (and who shall blame them?) to wreak their vengeance on the heads of their oppressors; dissension, terror, and civil war, will rage with increased fury and violence; and our ascendancy will be at an end, the instant it cannot be maintained *by force of arms!* \*

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## WEST INDIA SLAVERY.

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### VINDICATION OF THE NEGRO CHARACTER.†

THAT the various bad qualities which have been ascribed to the negro character, often with great justice, belong rather to their habits than their nature, and are derived either from the low state of civilisation in which the whole race at present is placed, or from the manifold hardships of their unnatural situation in the colonies, appears a proposition not only consistent with the analogy of all the other races of mankind, but immediately deducible from well-established facts. The travellers who have visited the interior of Africa, where the influence of the slave-trade is much less felt than upon the West Coast, assure us, that the natural dispositions of the negro race are mild, gentle, and

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\* Since the commencement of the Edinburgh Review, the state of Ireland has occupied its constant and unvaried attention. The numerous articles on this important subject are valuable for the mass of information they contain respecting the moral, intellectual, and political condition of the Irish people. In addition to the Essays on the Catholic Question, to which I have elsewhere referred in a note, the reader may consult Vol. v. 152. Vol. x. pp. 116. 299. Vol. xii. p. 336. Vol. xiv. p. 151. Vol. xix. p. 95. Vol. xx. p. 346. Vol. xxi. p. 340. Vol. xxix. p. 114. Vol. xxxi. p. 441. Vol. xxxiv. p. 320. Vol. xxxvii. p. 60. Vol. xli. p. 143. Vol. xliii. p. 461. Vol. xlvi. p. 433. Vol. xlix. p. 300.

† Examen de l'Esclavage en général, et particulièrement de l'Esclavage des Nègres dans les Colonies Françaises de l'Amérique. Par V. D. C. Ancien Avocat et Colon de St. Domingue.—Vol. vi. p. 326. July, 1805.



amiable in an extraordinary degree: that, far from wanting ingenuity, they have made no contemptible progress in the more refined arts; and have even united into political societies of great extent and complicated structure, notwithstanding the grievous obstacles which are thrown in the way of their civilisation, by their remote situation, and their want of water-carriage; that their disposition to voluntary and continued exertions of body and mind, their capacity of industry, the great promoter of all human improvement, is not inferior to the same principle in other tribes in similar situations: in a word, that they have the same propensity to improve both their condition, their faculties, and their virtues, which forms so prominent a feature of the human character over all the rest of the world. To detail the facts upon which these opinions are founded, would lead us beyond the bounds prescribed to this discussion; but we refer our readers for a brief statement of them, collected from the accounts of travellers who support the slave-trade and slave system, and given in their own words, to the first Appendix of the tract formerly reviewed, entitled, "*A Concise Statement of the Question regarding the Abolition of the Slave-Trade.*"\* Abundant proofs of the propositions just now advanced will be found in that Appendix, which is indeed only a transcript of various unquestionable authority. But to those who are aware of the value of analogical arguments in a question of this nature, the demonstration may be made still more simple and satisfactory. Let them compare the general circumstances of any European nation whatever,—and, if they please, the individual character, both for talents and virtues, of its inhabitants, at two distant epochs of its history; and let them acknowledge at once how remarkable is the contrast in each particular point. Our readers need not be told that, little more than a century ago, Russia was covered with hordes of barbarians; that cheating, drinking, brutal lust, and the most ferocious excesses of rage, were as well known, and as little blamed, among the better classes of the nobles who frequented the Czar's court, as the more polished and mitigated forms of the same vices are at this day in St. Petersburg; that literature had never once appeared among its inhabitants in a form to be recognised; and that you might travel over tracts of several days' journey, without meeting a man, even among the higher classes, whose mind contained the materials of one moment's rational conversation. Although the various circumstances of *external* improvement will certainly not disguise, even at this day, and among the individuals of the first classes, the "*vestigia ruris*;" yet no one can presume to dispute that the stuff of which Russians are made has been greatly and fundamentally ameliorated; that their capacities are rapidly unfolding, and their virtues improving, as their habits have been changed, and their communication with the rest of mankind extended. A century ago, it would have been just as miraculous to read a tolerable Russian composition, or find a society of Boyars where a rational person could spend his time with satisfaction, as it would be, at this day, to find the same phenomena at Houssa or Tombuctoo; and speculators who argue about races, and despise the effect of circumstances, would have had the same right to decide upon the fate of all the Russias, from an inspection of the Calmuc skull, as they now have to condemn all Africa to everlasting barbarism, from the heads, the colour, and the wool of its inhabitants. If it be still maintained, that even in the end

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\* Vol. iv. p. 47.



there will always be a sensible difference between the negro and the European, we demand what reason there is to suppose, that this disparity will be greater than the difference between the Slavonian and Gothic nations. Admitting every thing that can be urged in favour of the distinction of races, no one has yet denied, that all the families of mankind are capable of great improvement. And though, after all, some tribes should remain inferior to others, it would be ridiculous to deduce from thence either an argument against the possibility of greatly civilising even the most untoward generation, or an inference against the importance even of the least considerable advances which it may be capable of making towards perfection. That the progress of any race of men, or of the whole species, in the various branches of virtue and power, must be infinite, was never, we believe, maintained by reasoners who deserved the name of philosophers. That this progress is in its nature indefinite; in other words, that no limit can be assigned to its extent or acceleration, is a proposition suggested by a thousand direct considerations, as well as obvious analogies, and deserves the name of a general fact, rather than a plausible speculation.

Without pretending to credit all that has been related of the improvements made by the Negroes in the different countries which they have been fated to inhabit, we need only cast our eyes upon a few unquestionable facts, and compare their achievements in several situations, to be convinced that the general proposition applies to them as well as to the rest of mankind. The superiority of a negro in the interior of Africa, to one on the Slave Coast, is a matter of fact. The enemies of the slave-trade reasonably impute the degeneracy of the maritime tribes to that baneful commerce. Its friends have, on the other hand, deduced from thence an argument against the negro character, which, say they, is not improved by intercourse with civilised nations. But the *fact* is admitted. To see it exemplified, we have only to consult the travels of Mr. Park, edited by Bryan Edwards; and the same observation has been found, by Mr. Barrow, applicable to the tribes south of the line, who increase in civilisation as you leave the Slave Coast. Compare the accounts given by these travellers, of the skill, the industry, the excellent moral qualities of the Africans in Houssa, Tombuctoo, &c., with the pictures that have been drawn of the same race, living in all the barbarity which the supply of our slave ships requires; you will be convinced that the negro is as much improved by a change of circumstances as the white. The state of slavery is in none of its modifications favourable to improvement; yet, compare the Creole negro with the imported slave, and you will find that even the most debasing, the most brutifying form of servitude, the pitiless drudgery of the field and whip, though it must necessarily eradicate most of the moral qualities of the African, has not prevented him from profiting in his intellectual faculties by the intercourse of more civilised men. The events of the war in St. Domingo read us a lesson on this point, which it would be happy if we could be permitted to forget;—negroes organising immense armies; laying plans of campaigns and sieges, which, if not scientific, have at least been to a certain degree successful against the finest European troops; arranging forms of government, and even proceeding some length in executing the most difficult of human enterprises; entering into commercial relations with foreigners, and conceiving the idea of contracting alliances; acquiring something like a maritime force; and, at any rate, navigating vessels



in the tropical seas, with as much skill and foresight as that complicated operation requires. (*See our Review of M'Kinnon's Tour, No. VIII.*)

This is certainly a spectacle which ought to teach us the effects of circumstances in developing the human faculties, and to prescribe bounds to that presumptuous arrogance, which would confine to one race the characteristic privilege of the species. We have, indeed, the proof in our losses. We have torn those men from their country, on the vain and wicked pretence that their nature is radically inferior to our own. We have treated them so as to stunt the natural growth of their virtues and their reason. Our crimes have been partly successful; for the West Indian, like all other slaves, has copied some of the tyrant's vices. But their ingenuity has flourished apace, even under all disadvantages; and the negro species is already so much improved, that while we madly continue to despise them, and, from our contempt, to justify a repetition of the crimes which have transplanted them, the real question in many a thinking man's mind is, how long they will suffer us to exist in the New World. All the arguments in the brains of a thousand metaphysicians will never explain away these facts. They may tell us, that brute force and adaptation to the climate are the only faculties which the negroes of the West Indies possess. Something more than this must concur to form and subsist armies, and to distribute civil powers in a state. And the negroes, who in Africa cannot count ten, and bequeath the same portion of arithmetic to their children, must have improved, both individually and as a species, before they can use the mariner's compass, and rig square-sailed vessels, and cultivate whole districts of cotton for their own profit in the Caribbee islands. The very ordinary circumstance of the improvement visible in the negroes brought over to Europe as domestics, and their striking superiority to such of their countrymen as still remain, either in Africa or the West Indies, may perhaps illustrate the doctrine now maintained, even to those whom the more general views of the fact have failed of convincing. It is certainly not assuming too much, to suppose that there is a wider difference between one of those black servants and a native of the Slave Coast, than between a London chairman and a subject of the Irish kings who flourished a few centuries ago. Nor is there any doubt that the fidelity, courage, and other good qualities generally remarkable in freed negroes, distinguish them as much from the slaves, of whose cowardice and treachery such pictures have been drawn, as the various feats of valour recorded in the history of the Welsh, place them above those wretched Britons who resisted their Saxon enemies only with groans.

We may be assured, then, that there is nothing in the physical or moral constitution of the negro, which renders him an exception to the general character of the species, and prevents him from improving in all the estimable qualities of our nature, when placed in circumstances tolerably favourable to his advancement. Nay, under all possible disadvantages, we find evident proofs of the progress he is capable of making, whether insulated by the deserts of Africa from all communication with other nations, or surrounded by the slave factories of the Europeans, or groaning under the cruelties of the West India system. That this progress will be accelerated, in proportion as those grand impediments are removed; that while Africa is civilised by the establishment of a legitimate commerce between its fertile and populous regions,

and the more polished nations of the world, the negroes already in the West Indies will rapidly improve in all the best faculties of the mind, as soon as the effects of the abolition shall begin to appear in the ameliorated treatment they experience from their masters, is a proposition which follows obviously from the remarks now premised. To trace all the probable steps by which this great measure must ultimately change the situation of the West Indian labourers, would carry us beyond the bounds of this article. It may be sufficient to suggest a few of the most remarkable gradations which will probably conduce to this necessary reform in the colonial system. And here we shall find direct arguments, from analogy, sufficient to guide us, if our readers are disposed to admit the legitimacy of reasoning from the history of other races of mankind, to the probable history of the Americans.

In the first place, it will not be long before a milder system of treatment increases the productive powers of the negro's labour. That the first two or three seasons may be less prosperous for the planter, in consequence of the change, has been sometimes admitted by the advocates of the abolition. Indeed, changes of every kind have a tendency, at the beginning, to produce slight derangements in all political systems; and it is one of the miserable consequences of human impolicy, that the correction of the greatest evils in society generally increases, for the moment, the bad effects of the original error. But the connection is so constant and so clear between industry and freedom, and consequently between increased exertions of voluntary labour, and the milder treatment which approaches the slave to the condition of liberty, that we may reasonably expect to see the temporary derangement last for a very trifling period. The history of all Europe demonstrates the immense effects which the milder treatment of the labouring orders naturally produces upon the value of their industry. To take only a very late example: — It is well known that the proprietors of Hungary, almost immediately after the reform of Maria-Teresa, began to feel the salutary consequences of the limitations of the *corvées* due from their peasants. When, instead of possessing full power to appropriate the whole of the serf's labour, the lord could only take two days in each week, he found those two days worth much more than all the seven had been before, — although, at the very same time, he lost the right of retaining the peasant on his ground against his will. If such mitigations had been favourable to the master, still more advantageous must they be to the slave. And can any improvement bear more directly upon the condition of the lower orders, particularly upon their civilisation, than an augmentation of their wealth and of their importance to the superior classes? Such will probably be the first great effect of the abolition, long before time shall have been given for any positive and definite change in the system. It is not unlikely that the number of holidays will next be increased, or the hours of work in the day diminished; that the negro will by degrees be left more and more to his own care, and will begin to feel himself more dependent on the produce of his industry. The less that laws interfere in this delicate matter, so much the better for the master, and still more for the slave. The mutual interests of the parties will be the best of laws; the most just in its enactments, the most unerring in its operation, and indeed the only one capable of being accurately executed. When something like industry has taken root in the plantations, it may be time to introduce, in the same silent, gradual, and voluntary manner, the grand



improvement of task-work. This has already been attempted with the happiest effect in several of the colonies; in Brazil; in some parts of the Spanish Main; in the Bahamas, and elsewhere. (*See our Review of M'Kinnon's Tour*, No. VIII.) It has been introduced also in Surinam; though, from the peculiar circumstances of the Dutch planters, and perhaps from its premature adoption, it has not there produced such salutary changes as in the other settlements. Indeed, while the bad effects of the old system flourish in full vigour, preventing the general improvement of the slaves in their habits of voluntary exertion, it is only in certain kinds of work that tasks can be distributed. It is reserved for the new mode of treatment to render the *universal* introduction of task-work not only an easy, but a necessary improvement, by approximating the slaves to the condition of free labourers. And when these changes shall have been effected slowly, and with the consent of all proprietors, not taken by vote, but freely given by each individual; will not the lower orders in the West Indies be exactly in the state of the *adscripti glebæ* under the milder feudal governments of the Old World? It is but one step to make them *coloni partiarii*, or serf tenants, paying a proportion of their crops to the lord of the land, as in fact they are already in some parts of Spanish and Portuguese America, where the richest ores and pearls are obtained, by means of this very contract between the master and his slave: nor does it much signify in what form the last change of all shall then be effected by the total emancipation of the negro. He will, by this natural gradation, have become civilised to a certain extent, and fully capable of enjoying the station of a free man, for which all are fitted by nature. In the course of time, we may hope to see the same relaxation of prejudice against him on the part of the whites, which has made the European baron cease to look down upon his serf as an inferior animal. The mixture even of the races is a thing by no means impossible, and will remove the only pretext that can remain for supposing the West Indian society as new-modelled by the abolition, to be in the smallest degree different from the society in Europe, after the successors of the Romans ceased to procure slaves in commerce.

These observations we now leave to the consideration of such readers as may take the trouble of comparing them both with the facts formerly stated upon the general question of the African traffic, and with the well known history of the civilised communities to which they have themselves the happiness of belonging. We are fully persuaded that such a comparison need be followed but for a few steps, in order to demonstrate that the foregoing deductions are matters of fact, rather than of speculative theory; and that the only postulate required, to render the feeble sketch here exhibited a correct portrait, is that leading measure which the enlightened legislature of Great Britain stands pledged in a manner to adopt,—the total and immediate abolition of the slave trade.

## THE RIGHT OF THE BRITISH PARLIAMENT TO LEGISLATE FOR THE COLONIES.—ALARMS RESPECTING NEGRO REBELLIONS.\*

IN looking back to the statement which we made nearly two years ago, at the commencement of the controversy (see the No. for October, 1815†), it is extremely gratifying to perceive, that the argument and the facts there urged in defence of the superintendence of the mother country generally, and more especially in behalf of the Registry, stand unmoved by all that has taken place, whether in England or in the Colonies. They are, on the contrary, exceedingly strengthened by what has since passed, and by many things which have come to light during the controversy.

The first great argument used by the Planters, was the incompetence of the British Parliament to legislate for the internal affairs of the Colonies—which they said might safely be left to the local governments, who would do all that sound policy could sanction, or justice require. It may now be gathered from what took place in Parliament at the close of the session 1816, and from what has since been done in Jamaica, that the West Indians have materially lowered their pretensions to exclusive legislation. They seem only to require a priority of law-making; a sort of option to pass the acts themselves, or suffer them to be passed in England. For it was distinctly stated in the debate, that the Registry Bill should be given up for that session, in order to see whether the Colonies would adopt the plan of registration themselves: and with a distinct understanding that, if nothing were done, the measure should be revived next session. Instructions were sent by the Crown to all the Islands, urging the adoption of the plan, as the only alternative to having it forced upon them by Act of Parliament. And the West Indians felt, by a kind of instinct, that the sense of the public at home was as strongly against them as ever. The consequence has been, a partial acquiescence, sufficient to justify the friends of the question in allowing the last session to pass without renewing its discussion: and we should not be surprised to find the whole of the Islands pass bills similar to that recently carried in Jamaica.

If this shall happen, all that will remain on the part of the Abolitionists will be, to watch over the execution of those acts; to see that they do not become a dead letter, like so many other colonial laws, made to silence complaints at home, and never intended to be effectual. Now, one way of accomplishing, or at least furthering this object, is the establishment of a Duplicate Registry for all the Colonies, in London, and a statutory provision, that no money lent upon mortgage of colonial property shall be recoverable in the courts of this country; nor any money lent upon such mortgage by British subjects in the mother country, shall be recoverable in the West Indian courts, unless the slaves belonging to the mortgaged estates are registered in the Records of the London office. The creditors of West Indian estates almost all reside in England; and, without supplies from hence, the business of

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\* Medical and Miscellaneous Observations relative to the West India Islands. By John Williamson, M. D.—Vol. xxviii. p. 340. August, 1817.<sup>a</sup>

† See, Vol. xxv. p. 315., a convincing article, in which the right of interposition on the part of the mother country is fully proved, and the fallacious arguments opposed to it successfully refuted.



planting could not be carried on. The proposed enactment would prevent any money from being advanced to estates deficient in registration. To prevent frauds by the mortgager upon his creditor, it would only be necessary so to frame the provisions of the law, that the mortgagee could not proceed against the estate in equity, except in so far as the slaves were duly registered; or sue upon the specialty at law, except for a sum proportioned to the number of registered slaves. It would further be requisite, to prevent omissions in the registration subsequent to the date of the mortgage, without throwing upon the mortgagee the burden of seeing the title to the slaves kept up, that any omission should operate as a foreclosure.

To a provision of this kind, the objection of internal legislation is inapplicable. Parliament has not yet been told by the Planters, that it has no right to make laws binding upon British subjects within the realm. But we conceive it to be equally clear, that if any of the Colonies shall make a Registry law, with defects likely to prevent its efficacy within the settlement, Parliament ought to interpose, and supply the deficiency by a general enactment, extending to all the Islands, and declaratory of the universal law, by which it is now understood that the title to a slave really and effectually depends upon his being duly registered. To make such a statute, undoubtedly, is an act of internal legislation; but as, both on this and other branches of the question, such an interference seems to be absolutely necessary, where the Insular assemblies refuse to perform their duty, we shall shortly remind the reader, of a few, among the many acts of internal legislation of which Parliament has been guilty. The groundlessness of the clamour raised by the West Indians upon this topic, will thus be made apparent.

Doubts having arisen, whether money lent in England upon West Indian securities at the colonial rate of interest, was not illegally lent, as being within the usury laws, the statute 14 Geo. III. c. 79. was passed, to render all such loans valid; that is to say, to enable the lender to recover in the courts of the Colonies, and to prevent the borrower from availing himself, in those courts, of the defence that the transaction was illegal. A condition was annexed, requiring the registration of the securities in the colonial registers; that is to say, giving validity to every such transaction, provided it were recorded in a particular manner within the colony in which it terminated. This was manifestly as much an interference with the legislation of the Islands, as it would be to enact, that no lender should recover in the colonial courts, unless certain previous requisites were complied with — it signifies not of what kind, or whether the system of registry had been established before the passing of the act or not; the interference consisting, not in the nature of the thing required, but in permitting or requiring any thing in the proceedings of a colonial court.

There is certainly no point of greater delicacy in the whole subject of West Indian claims, than the law of debtor and creditor; and if to any act of interference we should naturally expect to see a resistance on the part of the Planters, it would be to a law giving their creditors new remedies for recovery of debts already contracted. Yet the 5 Geo. II. c. 7. was precisely such an act. It did that, with respect to all real property in the Colonies, which the landholders in the mother country have so strenuously and so successfully resisted in their own case; it made all real estates assets for the payment of all debts whatever, whether by simple contract or specialty; it made them liable to the same process

to which personal estates are subject; and it included slaves, making them equally liable to the remedies of the creditor, as if they were personal chattels to be severed from the plantation. In 1797, long after the arguments against Internal Legislation had been familiarly urged, not only with respect to Taxation, but also with respect to the Slave questions, another act was passed, excepting negroes from the provisions of the former statute; and this act (37 Geo. III. c. 122.) was brought into the British Parliament by the West Indian body themselves; they, at least, affected to be its authors, as wellwishers to whatever could meliorate the condition of the slaves.

In 1741, it being found that the penalties of the statute 6 Geo. I. (the *præmunire* act) against joint stock schemes, could not be enforced in the colonies, because that statute refers to the courts of Great Britain and Ireland only; an act was passed, 14 Geo. II c. 37. extending the whole provisions of the former touching those speculations, to all the colonies in America and the West Indies, and enabling the colonial courts to proceed against all persons charged with such offences. This was a law made in England, for subjecting to the most severe penalties known to our jurisprudence, short of capital punishment, all persons who, in the plantations, should traffic in certain speculations formerly permitted.

In 1773, at the very time when the disputes respecting internal legislation ran highest between England and the Colonies, the stat. 13 Geo. III. c. 14. was passed, to encourage aliens to lend money on the security of West India estates. This act enables alien creditors, whether friends or enemies, to bring actions at law, or to pursue equitable remedies in the courts of law and equity within the Islands; and it enters into a considerable detail of judicial proceedings, for the purpose of facilitating the relief of the parties in those courts. As if to mark more strongly how completely this was an act of interference on the part of the Parliament, with the internal affairs of the Islands — how completely this was a *local act* passed by the Legislature of the mother country, — the clause now usually added to local acts is found at the end of it, declaring that it shall be deemed and taken to be a public act, and taken notice of judicially; without being specially pleaded.

Now, in all these cases, some of them before, others since the American Revolution, it might have been contended by the Planters, that the subject-matter of the enactment was local and colonial. They might have urged, in each instance, the very same reasons which they now bring forward. In some of the cases, they had even a better show of argument — for it could hardly be denied that the powers of the local governments extended to the object in view; and there could be no doubt of their willingness to exert them. Yet not a complaint was heard, nor an effort made to set up the West Indian against the British Parliament. No one dreamt of saying, the rights of fraudulent debtors are sacred, and can only be restrained by themselves, or their representatives in Assembly. It was reserved for the present day to produce the doctrine, that the rights of cruel slave-drivers are too high matters to be touched by any body not composed of themselves. No one thought of bidding Parliament leave to the Islands the passing of laws to regulate their own judicial proceedings: but now, it seems, they alone must exercise this function; and not having even asked the exclusive performance of it, in cases where there was every reason to expect they would *bonâ fide* have made the provisions required, they are to insist upon being intrusted with it, where no man can pretend that they are friendly to the object



in view. We are not, however, at present, contending for parliamentary interference, unless where the Colonies have had the opportunity given them, and neglected it. The understanding which was come to in the debate of 1816, makes it fitting that this interposition should be confined to such a case, as far as regards the Registry Act. In all other questions, the Legislature is fully entitled, and is clearly bound, by the duty it owes to the people in every part of the empire, to enact whatever laws may appear to its wisdom necessary for their protection.

It may be asked, then, why the exception has been made of the Registry Act, which is left to the local authorities in the first instance? and it may further be demanded, whether, in all other cases, we are for Parliament legislating at once? Upon the first question we have to observe, that it would have been unwise, in the peculiar circumstances of the case, to have done otherwise. The extraordinary pressure of business which occupied the session 1816 is fresh in the reader's recollection. The nine or ten weeks before Easter were wholly unexampled in the history of parliamentary business, for the importance of the matters canvassed, and the constant occurrence of long and vehement discussions. The reduction of war-taxes, the peace establishment, the negotiations, the agricultural distresses, beside incidental matters, created, almost every week, six nights of keen debate, from five o'clock till two or three in the morning. The consequence of so fatiguing a session before Easter is, that for some time after the recess, no attention can be obtained to any but the regular and necessary business of the season; and when it was possible to bring on the Registry question, it was much too late to carry so important a measure through both Houses. Even if there had been time allowed, an accidental occurrence made it unwise to press the bill. A negro revolt or riot had broken out in one or two parishes in Barbadoes; and the enemies of the bill lost not a moment in raising the outcry, that this unfortunate event had originated in the hopes of emancipation which the Registry debates had given to the negroes. The alarm thus excited could not be allayed until time had been given for making enquiries into the fact, and for showing, merely by the cessation of the tumult, the groundlessness of the clamour. At this juncture, the West Indians prudently enough urged their readiness to pass Registry acts in the Islands; and the government at home professed the strongest disposition to use its influence with the local authorities for this purpose; so that the friends of the bill were willing to see how far those professions of the Government and the Assemblies could be trusted. Jamaica, early in the ensuing winter, passed a Registry act; and other Colonies showed a disposition to follow this example. Therefore the last session also has been allowed to pass without further interference; and it only remains to wait till the beginning of the next session, in order to see how far parliamentary proceedings may still be required.

To the question, whether, in other cases, Parliament should legislate without waiting for a failure on the part of the local governments,—we answer, that though the right is incontestable, standing upon principle, positive statute, and invariable, undisputed practice\*, yet it by no means follows, that it would always be expedient to take the legislative power out of the hands of the Colonies. In many cases, much advantage may be obtained from the local knowledge of the Assemblies,

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\* See our Number for October, 1815.



which no one ever undervalued, how absurd soever might be the pretensions founded upon it, of exclusive right to make laws for themselves. But, wherever there is reason to believe that the Islands will not pass the laws which justice, and a due regard to the prosperity of the community require, or where there is ground for suspecting that the laws passed by them are intended only to blind the public at home, without being honestly executed, it becomes the duty of Parliament to interpose its authority, exactly as it would in controlling any subordinate body at home. In all cases, however, the anxiety of the West Indians to carry through the measures proposed, deserves attention, and furnishes a *primâ facie* argument at least for permitting them to undertake the desired reformation. It will frequently be found the best way of beginning a salutary change, to moot the subject in Parliament, and there show the intention of carrying the measure into effect, unless some such plan shall be in the mean time adopted by the local authorities. But it will always be necessary to watch strictly over the enforcement of the law; and, where a manifest repugnance to proceed has been exhibited in the colonial legislatures, or where evasive measures have been adopted, Parliament ought at once to interfere.

The success with which clamours were raised last year respecting negro rebellion, and the dangers of teaching the slaves notions of emancipation, demands a few remarks. It is a strange and rather a humiliating thing, to see how surely every attempt to spread an alarm is successful, for a certain time at least, in this country. Let but a few striking facts be published; and the comments which accompany them are swallowed along with the stories. The press, no doubt, is open to those who can either deny the statements, or refute the inferences; but, for a certain time, one side only is listened to by the multitude. In a little while, the truth makes its way by means of the free discussion which substantially prevails; but irreparable mischief is often done in the interval. To take a few instances.—The whig ministers, in 1807, brought in a bill to give certain privileges to the Roman Catholics. The boon was extremely trivial, compared with the concessions made by the Court upon former occasions; it was indeed as nothing, contrasted with what the tories had done in the most critical periods of our history, the end of the American war, and the beginning of the French revolution. Yet it suited the purposes of party intrigue, to set up a religious outcry; and the yell was raised all over England, that the Church was in imminent danger from the progress of Popery. That so vile a trick should be ultimately successful, was impossible; the more especially as some of those who patronised it underhand, were more willing to profit by it than to own it. But many a grave statesman avowed his fears, and many an ignorant mob acted upon the alarm. A few months, we might even say weeks, were sufficient to dispel the illusion. In the course of a year or two, several of those who had obtained office because the partial bill of 1807 was attempted by their adversaries, joined those very men in attempting to carry the whole Catholic emancipation; and latterly, all the persons who turned out the government on account of that bill, themselves brought in and carried through a bill with the self-same object. Yet the cry of *No Popery*, though shortlived, served its purpose; and, we much doubt, if the victory gained over it by the good sense of the people in 1807, would prove a sufficient security against their being again duped, for the requisite time, should it be found expedient once more to raise the same clamour. In like manner, it was thought



convenient to proclaim an insurrection extending over great part of England in 1812. Sufficient credence was given to it, to make Parliament pass an act hostile to the spirit of the Constitution. It was not enforced; the lapse of a few months not only disproved the existence of the plots, but made all men forget the existence of the story. Last session, a demand much more urgent for plots arose. The tales were believed as before; the Constitution, practically speaking, was suspended; and already, we will venture to say, the most credulous alarmist has seen enough to make him doubt, while doubts have with thousands been turned into contemptuous or indignant disbelief. The alarm is daily subsiding; but the faction that raised it has been enabled to gain its object; and we greatly fear that many, who are now ashamed or sorry for their infatuation, would again be taken in with a new plot or fresh panic.

The Barbadoes insurrection deserves a place among these incidents. It had a somewhat better foundation in fact; for there had been a riot; some outrages were committed by the slaves; and a number of lives were lost, almost entirely among the negroes. But this occurrence, unhappily not very rare, or of any very alarming importance in a slave colony, probably of no greater relative magnitude than a meal mob in this country, was described as the beginning of a negro war—a massacre of the whites—a second St. Domingo. It was imputed to notions of emancipation received from the language and measures of the Abolition party; and, more especially, it was connected with the expectation of a Registry Act being passed, which the slaves, it was boldly asserted, had been taught to believe had their liberty for its object. We need not weary our readers with exposing the falsehood of these stories. A single fact puts them down,—but a fact which could not, from the nature of the thing, be known at the time of the discussion. Nothing farther was ever heard of this negro rebellion. Now, had the stories propagated respecting it been true, it is in the highest degree unlikely that any measures pursued by the Government at home should have been able to quell it so entirely; but, at all events, something must have happened during the three or four months which elapsed between the insurrection breaking out and the arrival in Barbadoes of the Parliamentary Address and the Royal Proclamation, to which the West Indians are, by the course of their argument, compelled to ascribe the restoration of tranquillity.

This consideration is indeed sufficient to show the absurdity of the alarm raised upon the subject of negro rebellion. But as it is a topic constantly resorted to, and forms the principal ingredient in all the arguments urged to deter the British Parliament from interfering in behalf of the slave population, in whatever way the interference is proposed, we must stop to mention another circumstance of a more general nature, and perfectly decisive of the question respecting the dangers of insurrection. The conduct of the West Indian body themselves, not only in the mother country but in the Colonial Assemblies, clearly evinces, both that there is no such ground of apprehension, and that they themselves know there is none. From the early periods of the Abolition controversy, they have never ceased to hold out this argument; contending, that all attempts, directly or indirectly, to alter the condition of the slave,—to interfere, as it is called, between the master and his property—would be fatal to the security of West Indian society. They have maintained, that it would be impossible for the

unlettered negro to understand nice distinctions; that a proposal of abolition would be confounded with a plan of emancipation: and that the harangues of enthusiasts against the cruelties of their treatment, would operate as incentives to resistance. When the horrors of the revolution in St. Domingo first appalled men's imaginations, those arguments assumed a more imposing shape. We were now told that experience proved the dangers of parliamentary interference; we were desired to look at the French plantations, and see the effects of discussing the rights of savages and slaves; and we were bid to take warning, lest misguided zeal at home, backed by the conflagration in their immediate neighbourhood, should spread devastation over the English settlements also. For the moment, those topics had their effect, slackened the perseverance of the Abolitionists, and probably retarded, by a few years, their final triumph. It was discovered, however, both then and in more recent times, that a great deal of discussion upon the most delicate matters relating to their condition, may take place, almost in the hearing of the poor negroes, without producing the slightest tendency towards rebellion against their masters. The calamitous events which desolated St. Domingo, for many years operated as among the most powerful of the arguments for abolishing the slave trade; and, if that argument had any weight then, it ought to possess the very same now, in promoting every measure for meliorating the condition of the slave population, and securing its allegiance by the best of all bonds, contentment and affection. That the West Indians know full well how safely all topics relating to the negroes may be discussed among them, is plain, from the speeches both upon the Abolition and upon every matter relating to the treatment of slaves, which are delivered in the Colonial Assemblies, and published in the gazettes; from the resolutions of those bodies, often vehement and even violent, regarding the proceedings of the British Government on questions connected with Slavery, and published, without hesitation, in all the Colonial papers; and from their own Parliamentary speeches, far exceeding any that proceeded from other quarters, in topics which may open the eyes of the negroes to their own strength, and the frail tenure whereby the whites maintain their West Indian dominion. To give only one specimen:—A most respectable member of the colonial body, a man eminent in any circle for his talents and information, scrupled not to avow, in the debate of 1816, that the breaking out, and the complete success of negro insurrection were synonymous terms, as far as related to Jamaica; and that he should, upon its commencement, ship off his whole disposable property, and all his white dependants, as a duty he owed to his own interest and to their safety; considering all delay or resistance as only ensuring expense and loss of lives, without the possibility of preventing the final result. We do not cite this opinion as at all coinciding with our own; we hold the contrary to be clearly supported by the whole history of the West Indies. But the deliberate promulgation of such sentiments is a most complete proof that the West Indians do not believe the poor negroes are very easily roused to revolt; and the perfect tranquillity of the slaves in all the sugar colonies, in the midst of such incentives to try their strength, is a sufficient justification of what to us appeared a somewhat rash disclosure. In plain truth, no parliamentary discussion can add to the conviction of their own wrongs which those unfortunate beings have hourly brought home to their feelings, by arguments far more powerful than all the



eloquence of civilised man. Those whom the rhetoric of the cart-whip has not urged on to rebel, may well be intrusted with the perusal of Mr. Wilberforce's speeches, and the African Institution's Reports; and if the knowledge that their own colour reigns triumphant almost within sight, has not given them a disposition to throw off the white yoke, we may with all safety adopt measures for mitigating the evils of their condition, and gradually restoring them to the rank of citizens, — and, with their restoration, securing, by the only effectual means, the permanent tranquillity of the Islands.

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### SLAVERY IN THE WEST INDIES — ARGUMENTS OF ITS ADVOCATES REFUTED.\*

† SOMETHING intended for a remedy has at last been provided for the lamentable state of the law in the West Indies with regard to religious instruction. The imagined specific, as our readers are aware, is an Ecclesiastical Establishment. This measure, we doubt not, is well intended; but we feel convinced that, unless combined with other reforms, it will prove almost wholly useless. The immorality and irreligion of the slaves are the necessary consequences of their political and personal degradation. They are not considered by the law as human beings, and they have therefore, in some measure, ceased to be human beings. They must become men before they can become Christians. A great effect may, under fortunate circumstances, have been wrought on particular individuals: but those who believe that any extensive effect can be produced by religious instruction on this miserable race, may believe in the famous conversion wrought by St. Anthony on the fish. Can a preacher prevail on his hearers strictly to fulfil their conjugal duties in a country where no protection is given to their conjugal rights, — in a country where the husband and wife may, at the pleasure of the master, or by process of law, be in an instant separated for ever? Can he persuade them to rest on the Sunday, in colonies where the law appoints that time for the markets? Is there any lesson which a Christian minister is more solemnly bound to teach, — is there any lesson which it is, in a religious point of view, more important for a convert to learn, than that it is a duty to refuse obedience to the unlawful commands of superiors? Are the new pastors of the slaves to inculcate this principle or not? In other words, are the slaves to remain uninstructed in the fundamental laws of Christian morality, or are their teachers to be hanged? This is the alternative. We all remember that it was made a charge against Mr. Smith, that he had read an inflammatory chapter of the Bible to his congregation, — excellent encouragement for their future teachers to “declare unto them,” according to the expression of an old divine, far too methodistical to be considered as an authority in the West Indies, “the whole counsel of God.”

The great body of the Colonists have resolutely opposed religious instruction; and they are in the right. They know, though their misin-

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\* The Slavery of the British West India Colonies delineated. By James Stephens, Esq.—Vol. xli. p. 464. January, 1825.

† The introduction to this article, which I have omitted, is an analysis of Mr. Stephens's well-known work on Slavery.



formed friends in England do not know, that Christianity and slavery cannot long exist together. We have already given it as our opinion, that the great body of the Negroes can never, while their political state remains the same, be expected to become Christians. But, if that were possible, we are sure that their political state would very speedily be changed. At every step which the Negro makes in the knowledge and discrimination of right and wrong, he will learn to reprobate more and more the system under which he lives. He will not indeed be so prone to engage in rash and foolish tumults; but he will be as willing as he now is to struggle for liberty, and far more capable of struggling with effect. The forms in which Christianity has been at different times disguised, have been often hostile to liberty. But wherever the spirit has surmounted the forms,—in France, during the wars of the Huguenots,—in Holland, during the reign of Philip II.,—in Scotland, at the time of the Reformation,—in England, through the whole contest against the Stuarts, from their accession to their expulsion,—in New England, through its whole history,—in every place,—in every age,—it has inspired a hatred of oppression, and a love of freedom! It would be thus in the West Indies. The attempts which have been made to press a few detached texts into the cause of tyranny, have never produced any extensive effect. Those who cannot refute them by reasoning and comparison, will be hurried forward by the sense of intolerable wrongs, and the madness of wounded affection. All this the Colonists have discovered; and we feel assured that they will never suffer religious instruction to be unreservedly given to the slaves. In that case, the Establishment will degenerate into a job. This is no chimerical apprehension. There have been clergymen in the West Indies for many years past; and what have they done for the Negroes? In what have they conduced either to their temporal or to their spiritual welfare? Doubtless there have been respectable men among them. But is it not notorious, that the benefices of the colonies have been repeatedly given to the outcasts of English society,—men whom the inhabitants would not venture to employ as book-keepers, yet whom they desired to retain as boon companions? Any person who will look over the Parliamentary papers which contain the answers returned by the colonial clergy to certain queries sent out a few years ago by Lord Bathurst, will see some curious instances of the ignorance, the idleness, and the levity of that body. Why should the new Establishment be less corrupt than the old? The dangers to which it is exposed are the same; we do not see that its securities are much greater. It has Bishops, no doubt; and when we observe that Bishops are more active than their inferiors on this side of the Atlantic, we shall begin to hope that they may be useful on the other.

These reforms have begun at the wrong end. “God,” says old Hooker, no enemy to Episcopal Establishments, “first assigned Adam maintenance for life, and then appointed him a law to observe.” Our rulers would have done well to imitate the example,—to give some security to the hearth and to the back of the slave, before they sent him Bishops, Archdeacons, and Chancellors and Chapters.

The work of Mr. Stephen has, we think, disposed for ever of some of the principal arguments which are urged by the Colonists. If those who conscientiously support slavery be open to conviction, if its dishonest advocates be susceptible of shame, they can surely never again resort to that mode of defence, which they have so often employed when hard pressed by some particular case of oppression. On such occasions



their cry has been, "These are individual instances. You must not deduce general conclusions from them. What would you say, if we were to form our estimate of English society from the Police Reports, or the Newgate Calendar? Look at the rules, and not at the exceptions." Here, then, we have those boasted rules. And what are they? We find that the actions which other societies punish as crimes, are in the West Indies sanctioned by law; — that practices, of which England affords no example but in the records of the gaol and the gibbet, are there suffered to exist unpunished; — that atrocities may there be perpetrated in the drawing-room or in the market-place, on the persons of untried and unconvicted individuals, which here would scarcely find an asylum in the vaults of the Blood-Bowl House.

Is it any answer to this charge, now most fully established, to say that we too have our crimes? Unquestionably, under all systems, however wise, under all circumstances, however fortunate, the passions of men will incite them to evil. The most vigilant police, the most rigid tribunals, the severest penalties, are but imperfect restraints upon avarice and revenge. What then must be the case when these restraints are withdrawn? In England there is a legal remedy for every injury. If the first prince of the blood were to treat the poorest pauper in St. Giles's as the best code in the West Indies authorises a master to treat his slave, it would be better for him that he had never been born. Yet even here we find, that wherever power is given, it is occasionally abused; that magistrates, not having the fear of the Court of King's Bench before their eyes, will sometimes be guilty of injustice and tyranny; that even parents will sometimes starve, torture, murder the helpless beings to whom they have given life. And is it not evident, that where there are fewer checks, there will be more cruelty?

But we are told, the manners of a people, the state of public opinion, are of more real consequence than any written code. Many things, it is confessed, in the Colonial laws, are cruel and unjust in theory; but we are assured that the feeling of the Colonists renders the practical operation of the system lenient and liberal. We answer, that public feeling, though an excellent auxiliary to laws, always has been, and always must be, a miserable and inefficient substitute for them. The rules of evidence on which public opinion proceeds are defective, and its decisions are capricious. Its condemnation frequently spares the guilty, and falls on the innocent. It is terrible to sensitive and generous minds; but it is disregarded by those whose hardened depravity most requires restraint. Hence its decrees, however salutary, unless supported by the clearer definitions and stronger sanctions of legislation, will be daily and hourly infringed; and with principles which rest only on public opinion, frequent infraction amounts to a repeal. Nothing that is very common can be very disgraceful. Thus public opinion, when not strengthened by positive enactment, is first defied, and then vitiated. At best it is a feeble check to wickedness, and at last it becomes its most powerful auxiliary.

As a remedy for the evils of a system of slavery, public opinion must be utterly inefficacious; and that for this simple reason, that the opinion of the slaves themselves goes for nothing. The desire which we feel to obtain the approbation, and to avoid the censure, of our neighbours, is no innate or universal sentiment. It always springs, directly or indirectly, from consideration of the power which others possess to serve or to injure us. The good will of the lower orders is courted only in



countries where they possess political privileges, and where there is much they can give, and much that they can take away. Their opinion is important or unimportant, in proportion as their legal rights are great or small. It can, therefore, never be a substitute for legal rights. Does a Smithfield drover care for the love or hatred of his oxen? and yet his oxen, since the passing of Mr. Martin's meliorating act, are scarcely in a more unprotected condition than the slaves in our islands.

The opinion then, which is to guard the slaves from the oppressions of the privileged order, is the opinion of the privileged order itself. A vast authority is intrusted to the master — the law imposes scarcely any restraints upon him — and we are required to believe, that the place of all other checks will be fully supplied by the general sense of those who participate in his power and his temptations. This may be reason at Kingston; but will it pass at Westminster? We are not inveighing against the white inhabitants of the West Indies. We do not say that they are naturally more cruel or more sensual than ourselves. But we say that they are men; and they desire to be considered as angels! — we say as angels, for to no human being, however generous and beneficent, to no philanthropist, to no fathers of the church, could powers like theirs be safely intrusted. Such authority a parent ought not to have over his children. They ask very complacently, “Are we men of a different species from yourselves? We come among you; — we mingle with you in all your kinds of business and pleasure; — we buy and sell with you on Change in the morning; — we dance with your daughters in the evening. Are not our manners civil? Are not our dinners good? Are we not kind friends, fair dealers, generous benefactors? Are not our names in the subscription lists of all your charities? And can you believe that we are such monsters as the saints represent us to be? Can you imagine that, by merely crossing the Atlantic, we acquire a new nature?” We reply, You are not men of a different species from ourselves; and, therefore, we will not give you powers with which we would not dare to trust ourselves. We know that your passions are like ours. We know that your restraints are fewer; and, therefore, we know that your crimes must be greater. Are despotic sovereigns men of harder hearts by nature than their subjects? Are they born with an hereditary thirst for blood — with a natural incapacity for friendship? Surely not. Yet what is their general character? False — cruel — licentious — ungrateful. Many of them have performed single acts of splendid generosity and heroism; a few may be named whose general administration has been salutary; but scarcely one has passed through life without committing at least some one atrocious act, from the guilt and infamy of which restricting laws would have saved him and his victims. If Henry VIII. had been a private man, he might have torn his wife's ruff, and kicked her lap-dog. He was a king, and he cut off her head; not that his passions were more brutal than those of many other men, but that they were less restrained. How many of the West Indian overseers can boast of the piety and magnanimity of Theodosius! Yet, in a single moment of anger, that amiable prince destroyed more innocent people than all the ruffians in Europe stab in fifty years. Thus it is with a master in the Colonies. We will suppose him to be a good-natured man, but subject, like other men, to occasional fits of passion. He gives an order. It is slowly or negligently executed. In England he would grumble, perhaps swear a little. In the West Indies, the law empowers him to inflict a severe flogging on the loiterer. Are we very



uncharitable in supposing that he will sometimes exercise his privilege?

It by no means follows that a person who is humane in England will be humane to his Negroes in the West Indies. Nothing is so capricious and inconsistent as the compassion of men. The Romans were people of the same flesh and blood with ourselves — they loved their friends — they cried at tragedies — they gave money to beggars ; — yet we know their fondness for gladiatorial shows. When, by order of Pompey, some elephants were tortured in the amphitheatre, the audience was so shocked at the yells and contortions by which the poor creatures expressed their agony, that they burst forth into execrations against their favourite general. The same people, in the same place, had probably often given the fatal twirl of the thumb which condemned some gallant barbarian to receive the sword. In our own time, many a man shoots partridges in such numbers that he is compelled to bury them, who would chastise his son for amusing himself with the equally interesting, and not more cruel diversion, of catching flies and tearing them to pieces. The drover goads oxen — the fishmonger crimps cod — the dragoon sabres a Frenchman — the Spanish Inquisition burns a Jew — the Irish gentleman torments a Catholic. These persons are not necessarily destitute of feeling. Each of them would shrink from any cruel employment, except that to which his situation has familiarised him.

There is only one way in which the West Indians will ever convince the people of England that their practice is merciful, and that is, by making their laws merciful. We cannot understand why men should so tenaciously fight for powers which they do not mean to exercise. If the oppressive privileges of the master be nominal and not real, let him cede them, and silence calumny at once and for ever. Let him cede them for his own honour. Let him cede them in compliance with the desire, the vain and superfluous desire, we will suppose, of the people of England. Is the repeal of laws which have become obsolete, — is the prohibition of crimes which are never committed, too great a return for a bounty of twelve hundred thousand pounds, for a protecting duty most injurious to the manufacturers of England and the cultivators of Hindostan, for an army which alone protects from inevitable ruin the lives and possessions of the Colonists?

The fact notoriously is, that West Indian manners give protection even to those extreme enormities against which the West Indian laws provide. We have already adverted to one of the most ordinary sophisms of our opponents. “Why,” they exclaim, “is our whole body to be censured for the depravity of a few? Every society has its miscreants. If we had our Hodge, you had your Thurtell; if we had our Huggins, you had your Wall. No candid reasoner will ground general charges on individual cases.” The refutation is simple. When a community does nothing to prevent guilt, it ought to bear the blame of it. Wickedness, when punished, is disgraceful only to the offender; unpunished, it is disgraceful to the whole society. Our charge against the Colonists is not that crimes are perpetrated among them, but that they are tolerated. We will give a single instance. Since the West Indians are fond of referring to our Newgate Calendar, we will place, side by side, a leaf from that melancholy Register, and another from the West Indian Annals.

Mr. Wall was governor at Goree. In that situation he flogged a man to death, on pretence of mutiny. On his return to England, he was

indicted for murder. He escaped to the Continent. For twenty years he remained in exile. For twenty years the English people retained the impression of his crime uneffaced within their hearts. He shifted his residence — he disguised his person — he changed his name, — still their eyes were upon him, for evil, and not for good. At length, conceiving that all danger was at an end, he returned. He was tried, convicted, and hanged, amidst the huzzas of an innumerable multitude.\*

Edward Huggins, of Nevis, about fifteen years ago, flogged upwards of twenty slaves in the public market-place, with such severity as to produce the death of one, and to ruin the constitutions of many. He had grossly violated the law of the Colony, which prescribes a limit to such inflictions. He had violated it in open day, and in the presence of a magistrate. He was indicted by the law officer of the crown. His advocate acknowledged the facts, but argued that the act on which he was tried was passed only to silence the zealots in England, and was never intended to be enforced. Huggins was acquitted! But that was a trifle. Some members of the House of Assembly lost their seats at the next election for taking part against him. A printer of a neighbouring island was convicted of a libel, merely for publishing an official report of the evidence, transmitted to him by authority. In a word, he was considered as a martyr to the common cause, and grew in influence and popularity; while a most respectable planter, an enlightened and accomplished gentleman, Mr. Tobin, who, nobly despising the prejudices of his class, had called the attention of the government to these diabolical outrages, was menaced with prosecutions, assailed with slanders, and preserved only by blindness from challenges.

Let these cases be compared. We do not say that Wall was not as bad a man as Huggins; but we do say that the English people have nothing to do with the crime of Wall, and that the public character of the people of Nevis suffers seriously by the crime of Huggins. They have adopted the guilt, and they must share in the infamy. We know that the advocates of slavery affect to deride this, and similar narratives, as old and threadbare. They sneer at them in conversation, and cough them down in the House of Commons. But it is in vain. They are written on the hearts of the people; and they will be remembered when all the smooth nothings of all the official defenders of such transactions are forgotten.

The truth is simply this. Bad laws and bad customs, reciprocally producing and produced by each other, have given to the Whites in all the slave islands — Dutch, Spanish, French, and English — a peculiar character, in which almost all the traits, which, in this quarter of the world, distinguish the different nations, are lost. We think we describe that character sufficiently when we call it the despotic character. In nothing does this temper more strongly appear than in the rage and contempt with which the Colonists receive every command, and indeed every admonition, from the authorities of the mother country. When the territorial power and the commercial monopoly of the East India Company have been at stake, has that great body conducted itself thus? Do even foreign powers treat us in this manner? We have often re-

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\* We should be far, indeed, from applauding those shouts, if they were the exultation of cruelty; but they arose from the apprehension that Court favour was about to save the criminal, and the feeling expressed was for the triumph of justice.



monstrated with the greatest sovereigns of the Continent on the subject of the slave trade. We have been repulsed — we have been deluded. But by whom have we been insulted? The representations of the king and people of England have never been met with outrageous scorn and anger, — except by the men who owe their food to our bounties, and their lives to our troops. To the most gentle and moderate advice, to the suggestions of the most respectable of the West Indian proprietors resident in England, they reply only in ravings of absurd slander, or impotent defiance. The essays in their newspapers, the speeches of their legislators, the resolutions of their vestries, are, almost without exception, mere collections of rancorous abuse, unmixed with argument. If the Anti-Slavery Society would publish a small tract, containing simply the leading articles of five or six numbers of the Jamaica Gazette, without note or comment, they would, we believe, do more to illustrate the character of their adversaries than by any other means which can be devised. Such a collection would exhibit to the country the real nature of that malignant spirit which banished Salisbury, which destroyed Smith, and which broke the honest heart of Ramsay.

It is remarkable, that most of these zealots of slavery have little or no pecuniary interest in the question. If the colonies should be ruined, the loss will fall, not upon the book-keepers, the overseers, the herd of needy emigrants who make up the noisy circles of Jamaica; but upon the Ellises, the Hibberts, the Mannings, men of the most respectable characters and enlightened minds in the country. *They* might have been excused, if any persons could be excused, for employing violent and abusive language. Yet they have conducted themselves, not perhaps exactly as we might wish them, but still like gentlemen, like men of sense, like men of feeling. Why is this? Simply because they live in England, and participate in English feelings. The Colonists, on the other hand, are degraded by familiarity with oppression. Let us not be deceived. The cry which resounds from the West Indies is raised by men, who are trembling less for their property than for the privileges of their cast. These are the persons who love slavery for its own sake. The declarations so often made by the Parliament, by the Ministers, by the deadliest enemies of slavery, that the interests of all parties will be fairly considered, and that wherever a just claim to compensation can be established, compensation will be given, bring no comfort to them. They may have no possessions, but they have white faces. Should compensation be given, few of them will receive a sixpence; but they will lose the power of oppressing with impunity every man who has a black skin. And it is to these men, who have scarcely any interest in the value of colonial property, but who have a deep interest, — the interest of a petty tyranny, and a despicable pride in the maintenance of colonial injustice, that the British Parliament is required to give up its unquestionable right of superintendence over every part of our empire. If this were requested as a matter of indulgence, or recommended as a matter of expediency, we might well be surprised. But it is demanded as a constitutional right. On what does this right rest? On what statute? On what charter? On what precedent? On what analogy? That the uniform practice of past ages has been against their claim, they themselves do not venture to deny. Do they mean to assert, that a parliament in which they are not represented ought not to legislate for them? That question we leave them to settle with their friends of the Quarterly Review and the John Bull newspaper, who, we hope,



will enlighten them on the subject of virtual representation. If ever that expression could be justly used, it would be in the present case; for probably there is no interest more fully represented in both Houses of Parliament than that of the colonial proprietors. But for ourselves we answer, What have *you* to do with such doctrines? If you will adopt the principles of liberty, adopt them altogether. Every argument which you can urge in support of your own claims, might be employed, with far greater justice, in favour of the emancipation of your bondsmen. When that event shall have taken place, your demand will deserve consideration. At present, what you require under the name of freedom is nothing but unlimited power to oppress. It is the freedom of Nero.

“But we will rebel!” Who can refrain from thinking of Captain Lemuel Gulliver, who, while raised sixty feet from the ground on the hand of the king of Brobdignag, claps his hand on his sword, and tells his majesty that he knows how to defend himself? You will rebel! Bravely resolved, most magnanimous Grildrig! But remember the wise remark of Lord Beefington:—“Courage without power,” said that illustrious exile, “is like a consumptive running footman.” What are your means of resistance? Are there, in all the islands put together, ten thousand white men capable of bearing arms? Are not your forces, such as they are, divided into small portions which can never act in concert? But this is mere trifling. Are you, in point of fact, at this moment able to protect yourselves against your slaves without our assistance? If you can still rise up and lie down in security—if you can still eat the bread of the fatherless, and grind the faces of the poor—if you can still hold your petty parliaments, and say your little speeches, and move your little motions—if you can still outrage and insult the parliament and people of England, to what do you owe it? To nothing but to our contemptuous mercy. If we suspend our protection—if we recall our troops—in a week the knife is at your throats.

Look to it, that we do not take you at your word. What are you to *us* that we should pamper and defend you? If the Atlantic Ocean should pass over you, and your place know you no more, what should *we* lose? Could we find no other cultivators to accept of our enormous bounties on sugar?—no other pestilential region to which we might send our soldiers to catch the yellow fever?—no other community for which we might pour forth our blood and lavish our money, to purchase nothing but injuries and insults? What do we make by you? If England is no longer to be *the mistress* of her colonies,—if she is to be only the handmaid of their pleasures, or the accomplice of their crimes, she may at least venture to ask, as a handmaid, what are to be the wages of her service,—as an accomplice, what is to be her portion of the spoil? If justice, and mercy, and liberty, and the law of God, and the happiness of man, be words without a meaning, we at least talk to the purpose when we talk of pounds, shillings, and pence.

Let us count our gains: let us bring to the test the lofty phrases of Colonial declamation. The West Indies, we are told, are a source of vast wealth and revenue to the country. They are a nursery of seamen. They take great quantities of our manufactures. They add to our political importance. They are useful posts in time of war. These absurdities have been repeated, till they have begun to impose upon the impostors who invented them. Let us examine them briefly.



Our commercial connection with the West Indies is simply this. We buy our sugar from them at a higher price than is given for it in any other part of the world. The surplus they export to the Continent, where the price is lower; and we pay them the difference out of our own pockets. Our trade with the West Indies is saddled with almost all the expense of their civil and military establishments, and with a bounty of 1,200,000*l.* Let these be deducted from the profits of which we hear so much, and their amount will shrink indeed. Let us then deduct from the residue the advantages which we relinquish in order to obtain it, — that is to say, the profits of a free sugar trade all over the world; and then we shall be able to estimate the boasted gains of a connection to which we have sacrificed the Negroes in one hemisphere, and the Hindoos in the other.

But the West Indians take great quantities of our manufactures! They *can* only take a return for the commodities which they send us. And from whatever country we may import the same commodities, to that country must we send out the same returns. What is it that now limits the demands of our Eastern empire? Absolutely nothing but the want of an adequate return. From that immense market — from the custom of one hundred millions of consumers, our manufacturers are in a great measure excluded, by the protecting duties on East Indian sugar.

But a great revenue is derived from the West Indian trade! Here, again, we have the same fallacy. As long as the present quantity of sugar is imported into England, no matter from what country, the revenue will not suffer; and, in proportion as the price of sugar is diminished, the consumption, and consequently the revenue, must increase. But the West Indian trade affords extensive employment to British shipping and seamen! Why more than any equally extensive trade with any other part of the world? The more active our trade, the more demand there will be for shipping and seamen; and every one who has learned the alphabet of political economy knows, that trade is active in proportion only as it is free.

There are some who assert that, in a military and political point of view, the West Indies are of great importance to this country. This is a common, but a monstrous misrepresentation. We venture to say, that Colonial empire has been one of the greatest curses of modern Europe. What nation has it ever strengthened? What nation has it ever enriched? What have been its fruits? Wars of frequent occurrence and immense cost, fettered trade, lavish expenditure, clashing jurisdiction, corruption in governments, and indigence among the people. What have Mexico and Peru done for Spain, the Brazils for Portugal, Batavia for Holland? Or, if the experience of others is lost upon us, shall we not profit by our own? What have we not sacrificed to our infatuated passion for transatlantic dominion? This it is that has so often led us to risk our own smiling gardens and dear fire-sides for some snowy desert or infectious morass on the other side of the globe; this inspired us with the project of conquering America in Germany; this induced us to resign all the advantages of our insular situation — to embroil ourselves in the intrigues, and fight the battles, of half the Continent — to form coalitions which were instantly broken — and to give subsidies which were never earned: this gave birth to the fratricidal war against American liberty, with all its disgraceful defeats, and all its barren victories, and all the massacres of the Indian hatchet, and all the bloody contracts of the Hessian slaughterhouse; this it was which, in the war

against the French republic, induced us to send thousands and tens of thousands of our bravest troops to die in West Indian hospitals, while the armies of our enemies were pouring over the Rhine and the Alps. When a colonial acquisition has been in prospect, we have thought no expenditure extravagant, no interference perilous. Gold has been to us as dust, and blood as water. Shall we never learn wisdom? Shall we never cease to prosecute a pursuit wilder than the wildest dream of alchemy, with all the credulity and all the profusion of Sir Epicure Mammon?

Those who maintain that settlements so remote conduce to the military or maritime power of nations, fly in the face of history. The colonies of Spain were far more extensive and populous than ours. Has Spain, at any time within the last two centuries, been a match for England either by land or by sea? Fifty years ago, our colonial dominions in America were far larger and more prosperous than those which we at present possess. Have we since that time experienced any decay in our political influence, in our opulence, or in our security? Or shall we say that Virginia was a less valuable possession than Jamaica, or Massachussets than Barbadoes?

The fact is, that all the evils of our Colonial system are immensely aggravated in the West Indies by the peculiar character of the state of slavery which exists there. Our other settlements we have to defend only against foreign invasion. These we must protect against the constant enmity of the miserable bondsmen, who are always waiting for the moment of deliverance, if not of revenge. With our other establishments we may establish commercial relations advantageous to both parties. But these are in a state of absolute pauperism; for what are bounties and forced prices but an enormous poor-rate in disguise?

These are the benefits for which we are to be thankful. These are the benefits, in return for which we are to suffer a handful of managers and attorneys to insult the King, Lords, and Commons of England, in the exercise of rights as old and sacred as any part of our constitution. If the proudest potentate in Europe, if the King of France, or the Emperor of all the Russias, had treated our government as these creatures of our own have dared to do, should we not have taken such satisfaction as would have made the ears of all that heard of it to tingle? Would there not have been a stately manifesto, and a warlike message to both Houses, and vehement speeches from all parties, and unanimous addresses abounding in offers of lives and fortunes? If any *English mob*, composed of the disciples of Paine and Carlile, should dare to pull down a place of religious worship, to drive the minister from his residence, to threaten with destruction any other who should dare to take his place, would not the yeomanry be called out? Would not parliament be summoned before the appointed time? Would there not be sealed bags and secret committees, and suspensions of the Habeas Corpus act? In Barbadoes all this has been done. It has been done openly. It has *not* been punished. It is at this hour a theme of boasting and merriment. And what is the language of our rulers? "We must not irritate them. We must try lenient measures. It is better that such unfortunate occurrences should not be brought before the parliament." Surely the mantle, or rather the cassock, of Sir Hugh Evans has descended on these gentlemen. "It is not meet the council hear a riot. There is no fear of Got in a riot. The council, look you, shall desire to hear the fear of Got, and not to hear a riot." We have



outdone all the most memorable examples of patience. The Job of Holy Writ, the Griselda of profane romance, were but types of our philosophy. Surely our endurance must be drawing to a close.

We do not wish that England should drive forth her prodigal offspring to wear the rags and feed on the husks which they have desired. The Colonists have deserved such a punishment. But, for the sake of the slaves, for the sake of those persons residing in this country who are interested in West Indian property, we should grieve to see it inflicted. That the slaves, when no longer restrained by our troops, would, in no very long time, achieve their own liberation, cannot be doubted. As little do we doubt that such a revolution, violent as it would doubtless be, would be desirable, if it were the only possible means of subverting the present system. The horrors of a battle or a massacre force themselves upon our senses. The effects of protracted tyranny, the terror, the degradation, the blighted affections, the stunted intellects, the pining of the heart, the premature decay of the frame, are evils less obvious, but equally certain; and, when continued through successive generations, make up a greater sum of human misery than was ever inflicted in the paroxysm of any revolution. Still we cannot doubt that savages, rude in understanding, exasperated by injuries, intoxicated by recent freedom, would be much benefited by the wise and merciful control of an enlightened people.

We feel also for the West Indian proprietors who reside in England. Between them and the inhabitants of the Colonies we see a great distinction. There may be in this body individuals infected with the worst vices of the colonial character. But there are also among them many gentlemen of benevolent feelings and enlarged minds, who have done much to alleviate the condition of their slaves, and who would willingly see the meliorating measures which his Majesty's ministers have suggested, adopted by the West Indian legislators. They have scarcely any thing in common with the Colonists, or with the scribblers whom the Colonists feed and clothe. They have taken little part in the controversy, ashamed probably of the infamous allies with whom they would have to co-operate. But what they have said has, upon the whole, been said manfully and courteously. Their influence, however, is at present exerted decidedly in favour of slavery, not, we verily believe, from any love of slavery in the abstract, but partly because they think that their own characters are in some degree affected by the attacks which are made on the Colonial system, and partly because they apprehend that their property is likely to suffer in consequence of the feeling which at present prevails throughout the country.

On both points they are mistaken. We are convinced that there is not, in any quarter, a feeling unfriendly to them, or an indisposition to give a fair consideration to their interests. The honest, but uninformed zeal, of individuals, may sometimes break forth into intemperate expressions: but the great body of the people make a wide distinction between the class of which we speak and the Colonial mob. Let it be their care to preserve that distinction indelible.

We call for their support. They are our natural allies. Scarcely have the ministers of the Crown, scarcely have the Abolitionists themselves, been more rancorously abused by the orators of Jamaica, than those persons. The objects of the two classes are wholly different. The one consists of English gentlemen, naturally solicitous to preserve the source from which they derive a part of their revenue. The other is



composed, in a great measure, of hungry adventurers, who are too poor to buy the pleasure of tyranny, and are therefore attached to the only system under which they can enjoy it gratis. The former wish only to secure their possessions; the latter are desirous to perpetuate the oppressive privileges of the white skin. Against those privileges let us declare interminable war, — war for ourselves, and for our children, and for our grandchildren, — war without peace, war without truce, war without quarter! But we respect the rights of property as much as we detest the prerogatives of colour.

We entreat these respectable persons to reflect on the precarious nature of the tenure by which they hold their property. Even if it were in their power to put a stop to this controversy, — if the subject of slavery were no longer to occupy the attention of the British public, could they think themselves secure from ruin? Are no ominous signs visible in the political horizon? How is it that they do not discern this time? All the ancient fabrics of colonial empire are falling to pieces. The old equilibrium of power has been disturbed by the introduction of a crowd of new States into the system. Our West India possessions are not now surrounded, as they formerly were, by the oppressed and impoverished colonies of a superannuated monarchy, in the last stage of dotage and debility, but by young, and vigorous, and warlike republics. We have defended our colonies against Spain. Does it therefore follow that we shall be able to defend them against Mexico or Hayti? We are told, that a pamphlet of Mr. Stephen, or a speech of Mr. Brougham, is sufficient to excite all the slaves in our colonies to rebel. What, then, would be the effect produced in Jamaica by the appearance of three or four black regiments, with thirty or forty thousand stand of arms? The colony would be lost. Would it ever be recovered? Would England engage in a contest for that object, at so vast a distance, and in so deadly a climate? Would she not take warning by the fate of that mighty expedition which perished in St. Domingo? Let us suppose, however, that a force were sent, and that, in the field, it were successful. Have we forgotten how long a few Maroons defended the central mountains of the island against all the efforts of disciplined valour? A similar contest on a larger scale might be protracted for half a century, keeping our forces in continual employment, and depriving property of all its security. The country might spend fifty millions of pounds, and bury fifty thousand men, before the contest could be terminated. Nor is this all. In a servile war, the master *must* be the loser — for his enemies are his chattels. Whether the slave conquer or fall, he is alike lost to the owner. In the mean time, the soil lies uncultivated; the machinery is destroyed. And when the possessions of the planter are restored to him, they have been changed into a desert.

Our policy is clear. If we wish to keep the Colonies, we must take prompt and effectual measures for raising the condition of the slaves. We must give them institutions which they may have no temptation to change. We have governed the Canadians liberally and leniently; and the consequence is, that we can trust to them to defend themselves against the most formidable power that any where threatens our Colonial dominions. This is the only safeguard. You may renew all the atrocities of Barbadoes and Demerara; you may inflict all the most hateful punishments authorised by the insular codes; you may massacre by the thousand, and hang by the score; you may even once more roast your captives in slow fires, and starve them in iron cages, or flay them alive



with the cart-whip;—you will only hasten the day of retribution. Therefore, we say, “Let them go forth from the house of bondage. For woe unto you, if you wait for the plagues and the signs, the wonders and the war, the mighty hand and the outstretched arm!”

If the great West Indian proprietors shall persist in a different line of conduct, and ally themselves with the petty tyrants of the Antilles, it matters little. We should gladly accept of their assistance: but we feel assured that their opposition cannot affect the ultimate result of the controversy. It is not to any particular party in the church or in the state; it is not to the right or to the left hand of the speaker; it is not to the cathedral or to the meeting, that we look exclusively for support. We believe that, on this subject, the hearts of the English people burn within them: they hate slavery; they have hated it for ages. It has, indeed, hidden itself for a time in a remote nook of their dominions: but it is now discovered, and dragged to light. That is sufficient. Its sentence is pronounced; and it never can escape! never, though all the efforts of its supporters should be redoubled,—never, though sophistry, and falsehood, and slander, and the jests of the pothouse, the ribaldry of the brothel, and the slang of the ring or fives’ court, should do their utmost in its defence,—never, though fresh insurrections should be got up to frighten the people out of their judgment, and fresh companies to bubble them out of their money,—never, though it should find in the highest ranks of the peerage, or on the steps of the throne itself, the purveyors of its slander, and the mercenaries of its defence!

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#### ON THE RIGHT, THE EXPEDIENCY, AND THE NECESSITY OF PARLIAMENTARY INTERFERENCE TO ABOLISH NEGRO SLAVERY.\*

THE only arguments that have ever been urged against Parliamentary interposition, may be reduced to three; those which deny *the right*,—those which dispute *the expediency*,—and those which question *the necessity* of interfering. We shall shortly examine these three objections in their order.

I. They who deny the right of the mother country to legislate for the colonies, proceed upon a most inaccurate recollection of the law and of the colonial history of this country. They refer to the unhappy and disgraceful time of the American war, when the honour and interest of England were sacrificed to the violent bigotry of the Tory party; and they ask, whether a question so triumphantly decided in favour of colonial independence, not merely by events, but by the general opinion of the world, is now to be revived, and a new war waged with colonial rights? Nothing, however, can be more ignorant and superficial than this view of the subject. The dispute with North America was confined to the question of Taxation; and the right of Parliament to legislate internally for the colonies *was never denied*, until their entire independence was claimed, and things had come to the last extremity. The friends of American rights in England never claimed

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\* An Address to the Electors and People of the United Kingdom. By James Stephens, Esq.—Vol. xliii. p. 431. February, 1826.

more for the colonies than the exemption from taxes imposed by the mother country; they regarded the claim of Parliament to tax the colonies as principally to be discountenanced, because of its tendency to put in jeopardy the general legislative power; and when the right of taxation was given up, they joined in passing the act which is confined to that taxation alone. Indeed the manner in which taxation is given up, shows how little disposition there has ever been to abandon legislative supremacy in any of its branches. The Declaratory Act of 1766 (6 *Geo. III. c. 12.*) had asserted that supremacy absolutely, and in all its branches; affirming that Parliament “had, hath, and of right ought to have, full power and authority to make laws and statutes of sufficient force and validity to bind the colonies and people of America, subjects of the Crown of Great Britain, in all cases whatsoever.” Being nearly defeated in the American war in the year 1778, it was deemed expedient to give up one portion of the right; and it is done in these words: “That after the passing of this Act, the Parliament *will not* impose *any duty, tax, or assessment whatever*, payable in any of his Majesty’s colonies, provinces, and plantations in North America or the West Indies, excepting only such duties as it may be expedient to enforce for the regulation of commerce,” (18 *Geo. III. c. 12.*); and it is remarkable that the preamble of the Act specifies taxation to be the only subject in dispute. The best authorities on constitutional law accordingly took a broad distinction between taxation and legislation. “Taxation,” said Lord Chatham, “is no part of the governing or legislative power. Taxes are a voluntary gift or grant of the Commons alone. In legislation the Three Estates of the realm are alike concerned; but the concurrence of the Peers and the Crown to a tax is only necessary to clothe it in the form of a law; the gift and grant is of the Commons alone.” The general right of legislation, then, stands exactly as it did before the American war.

But perhaps the best proof of its existence is the distinction taken by those who dispute it, between internal legislation generally, which they deny, and commercial regulation, which they are forced to admit. — Parliament, they allow, may make laws to model as it chooses all the mercantile concerns of the colonies; to prohibit export and import; to punish smuggling by all manner of penalties; to restrain the intercourse of colony with colony, and of all colonies with foreign states; nay, Acts of Parliament may be passed to make transactions formerly lawful punishable as felonies, though done within the bounds of the colonies; but, as all these things bear some relation to commerce, they are supposed not to come within the description of internal legislation. It is manifest, however, that there is no rational or solid ground for such a distinction; and that it rests wholly upon the greater necessity which there is for such matters being regulated by the superintending power of the mother country. Some of those laws could not be carried into effect by the local legislatures; but many of them could, and many of the most important. The slave trade could have been effectually abolished by the islands themselves, if they had chosen; yet Parliament first abolished it, and then made it felony, and lastly piracy, without waiting for the effects of Colonial legislation. It is plain that, in point of principle, there can be no difference between making such laws as these, and making laws to regulate the treatment of slaves in the Colonies; — and that it is altogether impossible to deny the latter power to the body which you admit is clothed with the former.



There is, however, one broad principle never to be lost sight of in discussing the rights of the Colonial Assemblies,—and that is, the wide difference between their constitution and that of our own Parliament and the Assemblies of the North American Colonies before the separation. They who speak of “representative bodies,” and “constitutions upon the model of the English,” and who deprecate the invasion of “popular rights,” and recommend a tender regard for “constitutional privileges,” really are guilty of unpardonable thoughtlessness; they commit the grossest abuse of language, and call things by names which do not in the least degree belong to them. We regard it as unconstitutional in England, that men should be governed by laws passed in assemblies where they are not represented; and we consider Parliament as authorised to make laws, because it represents, more or less accurately, the people of the realm. But suppose the people divided into two classes, one about a tenth part of the other in point of numbers, and suppose this class alone to be represented, and the great body of the community not to have one single vote in the election;—suppose *all* chosen as the rotten boroughs of England, and the boroughs and counties of Scotland, choose their members;—surely our sense of the uses of *such* a Parliament would be greatly, altered, and we should hardly feel disposed to regard its existence as essential to the interests of the people at large. This, however, conveys but a feeble idea of the West Indian Parliament. Suppose the body excluded from all share in elections to be, although ten times more numerous, yet of a race wholly different from the small privileged order, and alienated by habits and feelings, as well as distinguished by nature;—suppose them to be the objects of suspicion, jealousy, and dislike, and regarded as a kind of natural enemy;—to put the matter very intelligibly, suppose England overrun by a handful of Frenchmen, who had settled among us, and had usurped the exclusive power of governing us, and that the Parliament should be composed of Frenchmen, and chosen by Frenchmen alone, while the whole body of the English people had neither a representative nor a vote, from the Tamar to the Tweed;—could any one call this a free government, or a constitutional plan; or, without the most gross perversion of language, describe this as a Parliamentary scheme of polity? And yet something must still be added, to make the case exactly tally with that of the West Indies. The bulk of the community must be supposed uncivilised, and of a different complexion from their privileged oppressors, and holding no more intercourse with them than if they were a part of the animal creation. With what propriety could it be said that a Parliament so constituted would be calculated to represent or legislate for a community so composed? Would it not be a very mockery to tell such a community that it was represented, and that its affairs were administered by itself? Would not the community gain incalculably by having its affairs taken into the hands of some other body, belonging neither to the predominant nor to the subservient class, but standing even between both? Would it not be at once admitted, that the arguments against legislation without representation have failed entirely, inasmuch as non-representation is far less calamitous than misrepresentation? The answer, then, to every objection against the Parliament legislating for the colonies is short and plain; as long as the great body of the people there remain slaves, upon all constitutional grounds local legislation can only be regarded in the light of oppression, and only tolerated in cases



where it is absolutely necessary for the performance of local duties. We believe, however, that the question of right will by all be admitted to be less important than the question of expediency or discretion; and they who hold the claim of right highest must admit, that it is a right only to be exercised in peculiar cases, and then to be exercised with due circumspection: and this brings us to the argument of those, who, admitting the right, maintain that it is unsafe and impolitic to enforce it.

II. When safety or policy is spoken of, it is quite clear that no reference can be intended to the danger of the West India islands throwing off their allegiance, and establishing independent governments; and, almost equally clear, that no risk is intended to be suggested of their placing themselves under the protection of France or America. The danger apprehended is of exciting animosities injurious to the internal peace of the colonies, and likely to retard the work of improvement, or perhaps to hazard the subordination of the slaves. But it is manifest that such an appeal can never be suffered from the colonists themselves; for they can, by yielding a ready obedience to the lawful authority of the parent state, at once destroy the force of the argument. Then we have the example of Trinidad, where the promulgation of the Order in Council was vehemently opposed, and excited the greatest discontent; and yet no mischievous consequences have followed, either to the tranquillity of the white or of the negro population. It is absolutely necessary to look in the face the topic so constantly brought forward of negro insurrection. To hear the planters and their advocates in England, you would believe that the poor slaves form a mass prone to seditious movements, and that the slightest breath must produce an explosion. Every debate in Parliament, every proceeding in the country, is likely, we are told, to create rebellion among them. Yet they who use such topics here, allow in the West Indies the free publication of their own most intemperate debates, at meetings holden within sight and hearing of the slaves; they speak with a freedom more than touching upon licentiousness, of all questions relating to West Indian affairs, before their slaves; and they cohabit with negresses, who are made acquainted with all they think, and hope, and fear on the subject of slavery. It is ridiculous to suppose that the freest discussions in Parliament can be dangerous, while all these doings in the colonies are found to be safe. But if it be said that, by showing a disposition to interfere for the slave's protection, Parliament teaches him to look beyond his master, and thus weakens the tie of domestic authority, the answer is obvious. The negro understands, at least, as well the protection of the Crown in the conquered colonies, as he can that of Parliament in the old settlements. Indeed, the idea is far more easily conceived by him of the King being his friend, than the Parliament, an abstraction not very well suited to his comprehension. Therefore, we may observe, on the one hand, that this argument, if good for any thing, would apply still more strongly to exclude all interposition of the Crown in Trinidad, than to dissuade Parliament from legislating for Jamaica; and, on the other, that the entire failure of all predictions of danger in Trinidad proves how chimerical such apprehensions are in the old colonies. Every thing that can be urged to show the dangers of loosening domestic authority by legislative interference, may still more forcibly be urged against extending the Trinidad order to the six other conquered settlements. Yet the government avers that, at length, though somewhat tardily it



must be allowed, they are resolved to make that order general through those dependencies of the Crown. Can there be any reason, then, for Parliament refusing its co-operation to establish it in the old colonies?

A similar argument may be urged to meet the far more plausible objection, arising from want of local information. There is no doubt that, generally speaking, the colonial assemblies possess considerable advantage, in framing regulations for the management of the slaves and the improvement of their condition, over the Legislature at home. We might admit that there are many inconveniences unavoidably attending such an exercise of distant control and superintendence, unless where the questions to be dealt with are few and simple. But that the difficulties are not insuperable, we may safely assert, and may again appeal to the experience of Trinidad; about to be repeated in the other settlements which have no assemblies. If indeed we could have the cordial co-operation of the Legislature in the old Islands, and could then not only profit by their superior local information in passing the law, but obtain their willing aid in executing its provisions, unquestionably the work of reform would be far more prosperously conducted. But supposing we are *driven* to interfere by the supreme authority of Parliament, enough appears to warrant the conclusion, that its wisdom may as easily frame a law applicable to the circumstances of the old colonies, and its power carry it into effect, as the wisdom of the executive government can frame Orders in Council, and its power enforce them in the conquered settlements. The West Indians have no right to contend that they are better qualified to amend their slave system on the spot than we are in the mother country. They may have better capacity? but what if the will be wanting? what avails it to tell us how well they could do it if they would? All are ready to admit, that Parliament, how undeniable soever its right may be, ought only to exert it when no other means are left of executing justice, and fulfilling the lawful and righteous policy of the empire. This brings us to the most important part of the argument, the *necessity* of interference.

III. The proof of this rests upon the whole conduct of the Colonial Legislatures. Many illustrations have occurred, from their own proceedings, of the prevailing determination to do nothing until they are compelled by superior authority. The length of time that has elapsed since the state of colonial slavery first occupied the care of the mother country, and became the subject of Parliamentary discussion, not casually, but regularly and habitually, is of itself a powerful reason to prove the hopelessness of looking to that quarter for reform. It is more than forty years since Thomas Clarkson roused the people of England to put down the slave trade. It is not much less since Mr. Wilberforce fixed upon that horrible crime the jealous eye of Parliament. For half that long period the West Indians ceased not to tell us that their assemblies alone could grapple with the question, and that as they only could effect the abolition, so in good time they were sure to do it; and yet, for half of that long period, those assemblies did nothing but remonstrate against the abolition, which the interposition of Parliament at last and alone accomplished! The residue of the period has been passed in almost entire inaction by the same body. Always pretending that to them belongs the regulation of their internal concerns, and that their good will towards reforming the Slave Laws can only be exceeded by their qualifications for the task, they have suffered twenty years to elapse since the abolition of the trade rendered the duty of saving and cherish-

ing the stock more imperative upon them than ever, whether they regarded the interest of slave or of master; and they have really done hardly any thing that deserves the name of improvement: what little they have attempted, having been mixed, in the majority of instances, with so much of evil, that, upon the balance, there has been nothing like any advantage gained.\*

To us it appears manifest that, supposing the West Indian legislatures far more desirous of complying with the desire of the mother country than their conduct in any one instance warrants, the interposition of Parliament is necessary for their support. Placed as they are in the centre of a population incurable in their aversion towards the proposed reforms, those Assemblies are wholly unable to combat the force of the prejudices and passions which surround and assail them on every side. The countenance of the mother country, and her constituted authorities, is not enough; they must have the interposition of direct influence—of overruling power, to strengthen their hands, or rather to do that good work for them, which they are either unwilling or unable themselves to accomplish. If they are still unwilling, nothing but parliamentary authority can effect the object; if they are well disposed, but unable, from the prevalence of local influence, they will be the first to rejoice that those have entered upon the task, whose power to perform it is as indisputable as their right to undertake it.†

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#### SOCIAL AND INDUSTRIAL CAPACITIES OF NEGROES.‡

It was not till a short time back that we entertained the slightest intention of criticising the speculations of Major Moody. We had supposed that they would of course pass in their infancy to that Limbo which is ordained for Laureate Odes, old Court Kalendars, and Sermons printed at the request of congregations. That a commissioner should write a dull report, and that the government should give him a place for it, are events by no means so rare as to call for notice. Of late, however, we have with great surprise discovered, that the books of the Major have been added to the political canon of Downing Street, and that it has become quite a fashion among statesmen who are still in their noviciate to talk about physical causes and the philosophy of labour. As the doctrines which, from some inexplicable cause, have acquired so much popularity, appear to us both false and pernicious, we shall attempt, with as much brevity as possible, to expose their absurdity.

There are stars, it is said, of which the light has not yet travelled

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\* Sic in orig.

† The writer of this article proceeds to show how little has been done by the slave owners to ameliorate the condition of the negroes; and he adduces several undeniable statements to prove, that, if left in the hands of the colonists, the great work of slave emancipation will never be accomplished.

‡ 1. Papers relating to Captured Negroes. No. I. Tortola Schedules. Ordered by the House of Commons to be printed, 16th March, 1825.

2. Further Papers relating to Captured Negroes. No. II. Separate Report of John Dougan, Esq. No. III. Separate Report of Major Thomas Moody. Ordered by the House of Commons to be printed, 16th March, 1825.

3. Second Part of Major Moody's Report. Ordered by the House of Commons to be printed, 24th February, 1826. —Vol. xlv. p. 383. March, 1827.



through the space that separates them from the eye of man; and it is possible that the blaze of glory which dazzles all the young politicians between Charing Cross and Westminster Hall may not yet have reached our more remote readers. In order, therefore, that our remarks on the Report of Major Moody may be clearly understood, we shall give a short account of the circumstances under which it appeared.

By the act which abolished the trade in slaves, the king was empowered to make regulations for the employment and support of negroes, who, under the provisions of that act, or in the course of hostilities with foreign states, might be rescued from their kidnappers. Some of the liberated Africans were, in consequence, admitted into the army and the navy. Others were bound apprentices in the colonies: and of these last many were settled at Tortola.

In the year 1821, the House of Commons presented an address to the king, requesting that commissioners might be sent to ascertain the condition of these people, and to report it to the government. Major Moody was selected for this purpose by the Colonial Office. Mr. Dougan, a gentleman to whose talents and integrity the Major bears the highest testimony, was joined with him in the commission. But Mr. Dougan, whatever his good qualities may have been, was under the influence of some unhappy prejudices, from which his colleague appears to have been wholly free. He had been led to adopt the extravagant notion that the Africans were his fellow-creatures; and this delusion betrayed him into errors which Major Moody, to his eternal honour, endeavours to palliate, but which a less candid and amiable censor would have stigmatised with the severest reprehension. Our readers will be shocked to hear that an English gentleman actually desired a black apprentice, during a long examination, to take a seat! and they will be touched by the delicacy and generosity of the Major, who mentions this disgraceful occurrence "only," as he says, "to show the bias on the mind of his colleague when one of the African race was concerned with a white person." \*

At length some female Africans, in the service of a person named Maclean, were brought before the commissioners. By their statement, and by the confession of the master himself, it appeared that they had been cruelly treated. Maclean, too, it appeared, had no legal right to them; for they had been originally apprenticed to another person, and the indentures had never been transferred. Mr. Dougan thought it desirable to take advantage of this circumstance, and at once to place them in a more comfortable situation; and he prevailed on his colleague to concur with him in recommending the case to the particular consideration of the collector. In the mean time, however, Maclean wrote to the commissioners, requesting them to revise their proceedings, and most impudently telling them, at the same time, *that he had whipped the apprentices with tamarind switches for daring to bear evidence against him!* Mr. Dougan seems to have imagined that such conduct was grossly insulting to the commissioners, and to the government which employed them. He probably thought too, that to re-examine persons who had been flogged for what they had stated on a former examination, would be to violate every principle of equity and reason. On this point it appears that Major Moody was of a different opinion, and conceived that truth was likely enough to be obtained from a witness who had just learned

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\* First Part of Major Moody's Report, page 103.



that, if his evidence be disagreeable to the accused party, he will undergo severe chastisement. A rupture took place. The apprentices, we should perhaps say the slaves, remained with Maclean; and Mr. Dougan returned to England.

But we really cannot continue to speak ironically on a subject so serious. We do earnestly and gravely assure Major Moody, that we think his conduct, on this occasion, most unjust and unreasonable. Lord Bathurst seems to have entertained the same opinion; for, in consequence of orders sent out from England, the wretched women were taken from Maclean and apprenticed to another master.

Mr. Dougan now returned to the West Indies; and the disputes between him and his colleague recommenced. At length both were recalled. Mr. Dougan drew up a report of the proceedings under the commission. The Major refused to concur in it, and presented a separate statement in answer to it. Mr. Dougan, while labouring under a fatal malady, prepared a reply. This document has, since his death, been transmitted to the Colonial Office, and will, of course, be published with all expedition.

Mr. Dougan thought it sufficient to perform the duty with which he was charged. His report is, therefore, what it professes to be, an account of the condition of the liberated Africans. But the genius of the Major was not to be confined within limits so narrow. He had command, without stint, of the public paper and the public type. He conceived that the opportunity was not to be lost — that now or never was the time to be a philosopher like his neighbours, and to have a system of his own, which might be called after his name. The history of the liberated Africans forms, therefore, a mere episode in his plan. His report is, in substance, a defence of West Indian slavery, on certain new principles, which constitute what he is pleased to call the Philosophy of Labour.

His theory has met with a very flattering reception from those who are favourably inclined to the colonial system; because they dread innovation, because they hate the saints, or because they have mortgages on West Indian plantations. Unable themselves to defend their opinion, but obstinately determined not to renounce it, they are pleased with a writer who abounds in phrases which sound as if they meant something, and which, in the chat of a drawing-room, or in the leading article of a newspaper, supply the place of a reason very creditably.

We came to the consideration of the Report with no such bias upon our minds, and we have, therefore, formed a very different estimate of it. We think that it is, in matter and manner, the worst state-paper that we ever saw. The style is the jargon of a tenth-rate novelist, engrafted on that of a tenth-rate pamphleteer. It abounds with that vague diction which the political writers of France have invented, and by which they often contrive to keep up appearances, in spite of the most abject mental poverty. At certain distances, and in certain lights, this paste and pinchbeck logic serves its purpose respectably; and to this, unquestionably, the Major owes the greater part of his reputation. The highest compliment which we can, with any sincerity, pay to him, is to say, that he has some faults in common with Montesquieu — a writer whom he evidently regards with great admiration. He calls one of the silliest remarks of the lively President profound; an epithet which would have amazed us, if we had not recollected that the terms in which we describe magnitudes, whether material or intellectual, are



only relative, — that the Grildrig of Brobdignag may be the Quinbus Flestrin of Lilliput. The theories of Montesquieu are gone where the theories of the Major will soon go. But though Montesquieu could not keep his doctrines alive, he understood how to embalm them. Their mummies are beyond all price. The mouldering remains are valued, for the sake of the intricate folds in which they are swathed up, the sweet and pungent spices with which they are seasoned, and the gilded hieroglyphics with which they are emblazoned. The Major has no such skill. Abundance of italics, and occasional flowers of speech from the Emmelines and Adelines of the Minerva Press, are the only ornaments which set off his speculations. If our object were to render him ridiculous, we could easily fill our pages with solecisms, with affected phrases, with sentences of which the obscurity would leave the most sagacious interpreter at a fault. But this is not our intention. We shall direct our attacks against the great principles of his theory. To find these out, indeed, is no easy task: for the work has neither beginning nor end. The author, instead of taking the trouble to state his propositions, and class his arguments for himself, has left the whole of that task to his opponents, and has made it as difficult as possible by the most elaborate artifice of disorder. We shall do our best, however, to perform it faithfully, and to separate the most important passages from much curious matter concerning the feudal system — the chisel of Phidias — the marriage in Cana of Galilee — the difference between theory and practice — the choice of Hercules — the peace and happiness of rural life — the rape of the Sabines — the Supreme Being — and Major Moody himself.

The first great principle, then, which the Major professes to have discovered is this, that there exists between the white and black races an instinctive and unconquerable aversion, which must for ever frustrate all hopes of seeing them unite in one society on equal terms. We shall consider in succession the facts from which he draws this bold conclusion.

By the constitution of Hayti, it seems, no white man of any nation can be a master or proprietor in that island. From this circumstance the Major deduces the following inferences: —

“It seems as if each party, when in power, acts as if it was mutually thought the two races could not exist together, in the same community, with equal political powers, from the operation of some powerful causes, which do not appear to have been felt in England in former ages, when her inhabitants were composed of freemen and slaves, or when national distinctions among people living in the same country formed a political barrier between Britons and Romans, or Saxons and Normans.”\*

Moreover a young Haytian, named Moyse, about thirty years ago, complained of the attention which Toussaint Louverture paid to the interests of the Europeans, and declared that he should never like the whites till they should restore to him the eye which he had lost in battle with them! This last important anecdote the Major prints in italics, as quite decisive.† The poor Haytian must have been best acquainted with the origin of his own feelings; and, as he ascribed them to a cause which might well account for them, it is difficult to divine why any other should be assigned. The liberality of Toussaint, also, is at least as strong an argument against the hypothesis of Major Moody, as the animosity of Moyse can be in its favour.

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\* Major Moody's Second Report, p. 29.

† Ibid. p. 45.

From the law which declares white men incapable of becoming proprietors in Hayti, nothing can be inferred. Such prohibitions are exceedingly foolish; but they have existed, as every person knows who knows any thing of history, in cases where no natural antipathy can be supposed to have produced them. We need not refer to the measures which the Kings of Spain adopted against their Moorish subjects — to that tyranny of nation over nation which has, in every age, been the curse of Asia — or to the jealous policy which excludes strangers, of all races, from the interior of China and Japan. Our own country will furnish an example strictly in point. By the common law of England, no alien whatever can hold land, even as a tenant. The natives of Scotland remained under this incapacity till the two divisions of the island were united under James the First: and even then, the national prejudice was strong against the removal of the disability. The House of Commons was decidedly averse to it. The Court, in consequence, had recourse to a measure grossly unconstitutional. The judges were persuaded to *declare* that to be law which the Parliament could not be persuaded to *make* law; and even thus it was found impossible to remove the restriction from Scotchmen born before the union of the crowns.

The Major ought to be well acquainted with these proceedings: for Lord Bacon, of whom he professes himself a disciple, appeared as counsel for the post-nati. It is amusing to consider what the feelings of that illustrious man would have been, if some half-taught smatterer of his philosophy had risen to oppose him with such arguments as these. “The English can never amalgamate with any foreign nation. The existence and the popularity of such a law as this sufficiently prove that *some* powerful cause operates upon our countrymen, which does not act elsewhere. Our ancestors always felt that, although in other countries foreigners may be permitted and even encouraged by the natives to settle among them, no such mixture could take place here. I have been credibly informed also that a Scotchman, whose eye was struck out in a fray forty years back, swore that he never could bear the sight of a Southern after.” With what a look would Sir Francis have risen to annihilate such an argument! What mirth would have shone in his eyes! What unsavoury similitudes would have risen to his lips! With what confusion would the dabbler in experimental science have shrunk from a conflict with that all-embracing and all-penetrating mind, which fancy had elevated but not inebriated, which professional study had rendered subtle, but could not render narrow. As the Major seems very willing to be an experimental philosopher, if he knew how to set about it, we will give him one general rule, of which he seems never to have heard. It is this. When the phenomena can be explained by circumstances, which, on grounds distinct from those phenomena, we know to exist, we must not resort to hypothetical solutions. We are not entitled to attribute the hatred which the Haytian blacks may have felt towards the whites to any latent physical cause, till we have shown that the ordinary principles of human nature will not explain it. Is it not natural, then, that men should hate those by whom they have been held in slavery, and to whom they have subsequently been opposed in a war of peculiar ferocity? Is it not also perfectly agreeable to that law of association, from which so large a portion of our pains and pleasures is derived, that what we have long regarded as a distinguishing badge of those whom we hate should itself become hateful to us? If



these questions be answered in the affirmative, the aversion which the Haytian negroes are said to entertain towards the whites is at once explained.

The same remark applies to all that the Major has said respecting the state of public feeling in North America. The facts of the case he has stated quite correctly. It is true that, even in those States of the Union which have abolished slavery, the free blacks are still regarded with disgust and contempt. The most benevolent inhabitants of New England and New York, conceive that liberty itself will scarcely be a blessing to the African, unless measures be taken for removing him to some country where he may not be reminded of his inferiority by daily insults and privations. Hence Major Moody thought himself, as he tells us,

— “justified in the inference, that some powerful causes must be in action, and that those of a physical nature had not been overcome by mere legal exactments.” \*

It cannot be doubted that some powerful cause has been in action: but that it is a physical cause, is not quite so clear. The old laws have no doubt produced a state of public feeling, which their repeal cannot at once correct. In all the states the negro colour *has been* the livery of servitude. In some it still *is* so. The connection between the different commonwealths of the confederation is so close, that the state of feeling in one place must be influenced by the state of the laws in another. This consideration is surely sufficient to explain all the circumstances to which the Major refers. It is for him to show that an aversion for which *slavery* alone will sufficiently account is really the effect of *blackness*. He would, we believe, find it as easy to prove that there is something *naturally* and universally loathsome in the cut and colour of a prison uniform.

That the complexion of the free African renders his condition more unfortunate, we acknowledge. But why does it produce this effect? Not, surely, because *it is* the degrading circumstance, but because it is clear, instantaneous, and irrefragable *evidence* of the degrading circumstance. It is the only brand which cannot be counterfeited, and which cannot be effaced. It is borne by slaves and their descendants; and it is borne by no others. Let the Major prove that, in any society where personal bondage has never existed, the whites and blacks have felt this mutual dislike. Till he can show this, he does nothing.

But, it seems, an anonymous writer in South America, some years ago, declared, that the blacks never could amalgamate with the whites.† That a man who had passed his life among negro *slaves* should transfer to their colour the feelings of contempt with which he regarded their condition, and the mean vices to which that condition necessarily gave birth, was perfectly natural. That he should suppose a feeling, of which he could not remember the origin, to be instinctive, was also natural. The most profound thinkers have fallen into similar errors. But that a man in England should believe all this, only because a man at Bogota chose to write it, argues a strange degree of credulity. Such vague authority is not sufficient to establish a fact. To quote it in support of a general proposition, is an insult to common sense. The expressions of this Columbian prove only, what the refusal of the Major

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\* Second Part of Major Moody's Report, p. 27.

† Ibid. p. 23.



to let a negro sit in his presence proves as satisfactorily, that there are very weak and very prejudiced people in the world.

Feelings exactly similar to those which are unhappily so common among the whites of the United States, have often existed in cases where it is impossible to attribute them to physical causes. From a time beyond the researches of historians, an impassable gulf has separated the Brahmin from the Paria. The Jews were long regarded by the Spaniards and Portuguese with as much contempt and hatred as the white North American feels for the man of colour. The cases, indeed, are strikingly similar. The national features and rites of the Hebrews, like the black skin and woolly hair of the Africans, visibly distinguished them from the rest of the community. Every individual of the race bore about him the badges of the synagogue. Baptism itself could not wash away the distinction. Conversion might save him from the flames; but the stigma was indelible — he bore it to the grave — he bequeathed it to his children — his descendants, as long as their genealogy could be traced, were objects of scorn to the poorest Castilian peasant, who gloried in the name of an old Christian.

But we will not multiply examples in a case so plain. We hasten to another argument, on which Major Moody dwells with peculiar complacency. At this, indeed, we do not much wonder. It is entirely his own. He is the first writer who ever used it, and we venture to prophecy that he will be the last. We speak of his remarks on the influence of the sexual passion. We will give his own words: —

“ In such communities as I have referred to, an observer will not fail to discover the want of a certain class of sympathies, which are daily seen in action when men of the same race live together, even in republics, like the United States of America, although a portion of the community consisted of men of different nations and habits, but yet resembling each other in external form, colour, features, &c.

“ I allude to the extraordinary rarity of virtuous unions having taken place between the males and females of the pure negroes and the pure whites in America. I certainly have heard of such unions as in certain classes of society are seen in London; but in America they were considered rather as very extraordinary occurrences, particularly if the male should be a pure negro, and the female a pure white. On the other hand, when the female is an African, lust, aided by fear or avarice, has often led to an illicit union between the sexes. . . .

“ In the New World of America, virtuous unions between the extreme colours of black and white are always considered something in violation of the ordinary sympathies which spring from a pure affection, and therefore derogatory to the feelings of caste; for even the free coloured females, I understand, would have a reluctance, if advanced in civilisation, to form a virtuous union with a pure negro. . . .

“ Some of the intelligent free negroes of the United States, with whom I often conversed, for the express purpose of personal observation, felt the ban under which they were put, by the influence of prejudice, as they considered it, after the laws of the country had declared them free, and equal to any other citizen of the state; and, in the confidence inspired by my enquiries about their situation, I was often asked if, in England, white women did not marry black men? And, with apparent simplicity, it was enquired why the American white women were so prejudiced against black men? . . .

“ Those who merely refer the degraded state of the free Africans or blacks to their having been formerly slaves, and leave out of their consideration the consequences arising from physical differences in form, colour, feature, and smell, influencing those general ideas of beauty, creating that passion of love that most commonly leads to a virtuous union of the sexes of different nations, must be considered as having taken a very narrow view of the question, from the prevalent



custom of merely referring to moral causes alone, and omitting all references to those of a physical nature, though still more powerful in their effect." \*

This extraordinary argument is concluded by a touching representation of the refinement which modesty gives to pleasure, and of the happiness of being cherished and beloved, which, we hope, will edify the young gentlemen of the Colonial Office, but which has, we think, little to do with the question. This, therefore, we omit, as well as the pious appeal to the God of Truth, which follows it.

Is it possible that the Major does not perceive how directly all his statement leads towards a conclusion, diametrically opposite to that at which, by some inconceivable process, he has managed to arrive? We will give him an answer. But we really hope that he is the only one of our readers who will need it.

The passion of the sexes is a natural appetite. Marriage is a civil and religious institution. Where, therefore, between two classes of people the passion exists, but marriage is not practised, it is evident that nature impels them to unite, and that acquired feelings only keep them asunder.

Now, Major Moody just reverses this mode of reasoning. Because the whites form with the blacks those illicit unions, to which the motive is physical, but do not form those legitimate unions to which the motive is moral, he actually infers that the cause which separates the races is not moral, but physical! In the same manner, we presume, he would maintain, that a man who dines heartily without saying grace, is deficient, not in devotion, but in appetite.

The story which he tells respecting the free blacks, with whom he conversed in the United States, is alone sufficient to show the absurdity of his hypothesis. From his own account, it is plain that these blacks had no antipathy to white women. The repugnance was all on one side. And on which side? On that of the privileged class, of those whose superiority was till lately recognised by law, and is still established by custom. Is this a phenomenon so extraordinary that we must have recourse to a new instinct to account for it? Or may it not be explained into the same causes which in England prevent a lady from marrying a tinker, though the tinker would gladly marry the lady?

In the last century, the dissipated nobles of France lavished their wealth with the wildest profusion on actresses and opera girls. The favour of a distinguished heroine of this class was thought to be cheaply purchased at the price of jewels, gilded coaches, palaces blazing with mirrors, or even of some drops of aristocratic blood. Yet the poorest gentleman in the kingdom would not have married Clairon. This, Major Moody would say, proves that men who wear swords, feathers, and red-heeled shoes, entertain a natural aversion to women who recite verses out of *Andromaque* and *Tartuffe*. We think that we could hit on a different explanation.

It happens, indeed, rather unluckily, that, of the phenomena which the Major recounts, there is none which cannot be satisfactorily explained into moral causes, and none which can possibly be explained into physical causes. White women, says he, much more rarely form licentious connections with black men, than white men with black women. And this is a proof that the aversion of the two races is natural. Why, if it were natural, does it not influence both sexes alike? The principles to which these facts must be referred, are principles which we

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\* Second Part of Major Moody's Report, pp. 19, 20.

see in daily operation among ourselves. Men of the highest rank in our country are frequently engaged in low amours. The wife or daughter of an English gentleman very seldom forgets herself so far. But who ever thought of attributing this to physical causes?

The Major, however, is resolved not to leave himself unrefuted in any point. "Even the free *coloured* females," says he, "would have a reluctance, if *advanced in civilisation*, to form a virtuous union with a pure negro." He cannot pretend to believe that any physical cause operates here: and, indeed, distinctly attributes the reluctance of the coloured female to her advancement in civilisation. That is to say, he distinctly acknowledges that certain acquired habits, and certain advantages of rank and education, are alone sufficient to produce those effects which, according to his own theory laid down in the same page, can only result from natural organisation.

The Major tells us, that the colour, the features, and the other peculiarities of the black race, excite the disgust of Europeans. Here his testimony is at variance with that of almost all the writers on the subject with whom we are acquainted. Travellers and historians innumerable have asserted, that white men, in the torrid zone, generally prefer black females to those of their own country. Raynal, if we remember rightly, gives a very rational explanation of the circumstance. It is needless, however, to attack the Major with authorities from other writers: he may easily be refuted out of his own mouth. How can the physical peculiarities of the African race be more offensive in the wife than in the concubine? It is quite needless to enquire into the origin of the different opinions which people, in different situations, form on the subject of beauty. It is quite enough for us at present to discover, that if a man does not think a woman too ugly to make her his mistress, it cannot surely be on account of her ugliness that he does not make her his wife.

In England white women not unfrequently marry black men. We have ourselves known several such instances. Yet if the external appearance of the negro were such as naturally to inspire aversion, that feeling would be more strongly excited in a country of which the inhabitants are not familiarised by use to the revolting spectacle. This consideration alone would satisfy us that the real cause of the horror with which the whites in some other countries shrink from the thought of marriage with an African is to be found, not in physical, but in political and moral circumstances. We entertain little doubt that, when the laws which create a distinction between the races shall be completely abolished, a very few generations will mitigate the prejudices which those laws have created, and which they still maintain. At that time, the black girl, who, as a slave, would have attracted a white lover, will, when her father has given her a good education, and can leave her a hundred thousand dollars, find no difficulty in procuring a white husband.

We have perhaps dwelt too long on the feeble and inconsistent arguments which the Major has urged in support of his hypothesis. But we were desirous, before we entered on that part of his work which relates to questions of more difficulty, to furnish our readers with a specimen of his logical powers. They will perhaps be inclined to suspect, that a man who reasons thus on one subject, is not very likely to reason justly on any.

We now come to the second great principle which Major Moody con-



ceives himself to have established. It may be stated thus :—The inhabitants of countries lying within the torrid zone can be induced to engage in steady agricultural labour only by necessity. The barrenness of the soil or the density of the population may create that necessity. In Hindostan, for example, the peasant must work or starve. But where a few inhabitants are thinly scattered over a fertile country, they will be able to procure a subsistence with very little exertion. With a subsistence they will be content. The heat renders agricultural labour so painful, that those who are their own masters will prefer the enjoyment of repose to any of the comforts which they might be able to procure by regular industry. For this evil the only remedy is coercion, or, in other words, slavery. Such are the elements of the new philosophy of labour.

It may be doubted whether these doctrines, if admitted, would amount to a vindication of slavery. It does not appear to us quite certain that we are justified in compelling our fellow-creatures to engage in a particular employment, merely because that employment gives them exquisite pain. If a large portion of the human race be really placed in regions where rest and shade are the most delightful luxuries which they can enjoy, a benevolent man may perhaps be of opinion that they ought to be suffered to doze in their huts, except when necessity may drive them to employ an occasional hour in angling, gathering berries, or scattering a little rice in the marshes. We are entitled to demand that this point shall be saved to us; but we do not foresee that we shall need it. We assert, and will prove, that Major Moody has not established his theory; that he has not even raised a presumption in its favour; and that the facts on which he relies are either such as have no relation to the question, or such as occur daily in every climate of the globe.

We will begin with the case with which Major Moody would have done well both to begin and end — the case of the liberated Africans who were placed in Tortola. We must premise, that no experiment was ever made under circumstances less favourable. The negroes, when received from the holds of the slave-ships, were in a state of extreme weakness and disease. Of six hundred and seventeen blacks who were taken from the *Venus* and the *Manuella*, two hundred and twenty-two died before they could be settled as apprentices.\* The constitutions of many who survived were completely broken. By the masters to whom they were apprenticed they were frequently treated with inhumanity. The laws and institutions of Tortola, framed for a society made up of masters and slaves, were, as the Major himself states, by no means fitted for the regulation of such a class of persons as the apprenticed Africans. The poorer freemen of every colour felt an enmity towards people who were about to intrude themselves into those trades of which they possessed a monopoly. The planters were not inclined to look with favour on the first fruits of the abolition. Apprentices are, in every part of the world, noted for idleness. The degree of that idleness is in general proportioned to the length of the term for which they are bound to an unrequited service. The man who expects soon to be his own master, may exert himself to acquire skill in the business by which he is to subsist. He, on the other hand, who expects to waste half of his life in labour without remuneration, will generally do as little as he possibly can. The liberated Africans

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\* Mr. Dougan's Report, p. 7.

were most injudiciously apprenticed for fourteen years, and some even for a longer time. They had neither the motive of the freeman, nor that of the slave. They could not legally demand wages. They could not legally be subjected to the driver. Under these disadvantages was the trial made. And what was the result?

Major Moody examined into the conduct of sixty-one apprenticed negroes who had been rescued from the *Manuella*. The masters and mistresses were carefully interrogated. It appears from the schedules signed by the Major himself, that good characters were given to forty. Nine only appeared to be idle and disorderly. With respect to twelve, no decisive information was obtained. A similar enquiry took place respecting fifty-five apprentices who had formed part of the cargo of the *Venus*. Good accounts were received of forty. Only six were described as idle and disorderly.

Among sixty-five negroes who had been taken from the *Candelario*, there was not a single instance of grossly bad conduct. Fifty-seven received fair characters for honesty and industry.

Lastly, of one hundred and ten negroes who had been on board of the *Atrevido*, only four are characterised as decidedly worthless. Nine may be considered as doubtful. A favourable report is given of the remaining ninety-seven.

These facts, as we have said, we find in the papers signed by the Major himself. He has not, it is true, thought it necessary to give us the result of his enquiries in the Report so compendiously as we now exhibit it. He dwells at great length on particular cases which prove nothing. He fills page after page with the nonsense of planters who had no apprentices, who evidently knew nothing about the apprentices, and who, in general terms, proving nothing but their own folly and malevolence, characterised the whole race as idle, disorderly, quarrelsome, drunken, greedy. But, from the beginning to the end of the Report, he has not been able to spare three lines for the simple fact, that four fifths of these vilified people received excellent characters from their actual employers, from those who must have been best acquainted with their disposition, and who would have lost most by their idleness. Whoever wishes to know how Daniel Onabott broke his wife's nose; how Penelope Whan whipped a slave who had the yaws; how the Major, seventeen years ago, went without his supper in Guiana; how the arts and sciences proceeded northward from Carthage till they were stopped by the frozen zone; may find in the Report all this interesting information, and much more of the same kind. But those who wish to know that which Major Moody was commissioned to ascertain, and which it was his peculiar duty to state, must turn over three hundred folio pages of schedules. The Report does not, as far as we have been able to discover, give the most distant hint of the discoveries which they will make there.

We have no idea of charging the Major with intentional unfairness. But his prejudices really seem to have blinded him as to the effect of the evidence which he had himself collected. He hints that his colleague had privately prepared the apprentices for the examination. Of the justice of this charge we shall be better able to judge, when the answer of Mr. Dougan shall make its appearance. But, be it well founded or not, it cannot affect *our* argument. The Major does not pretend to insinuate that any arts were practised with *the masters*, and it is on the testimony of the masters alone that we are willing to rest our case. In-



deed, the evidence which was collected by the Major in the absence of his colleague, and which we must therefore suppose to be perfectly pure, tends to the same effect, and would alone be sufficient to show, that the apprentices have, as a body, conducted themselves in a manner which, under any circumstances, would have been most satisfactory.

It is perfectly true, that a knot of slave-owners, forming the legislature of Tortola, petitioned the government to remove these apprentices from the island. From internal evidence, from the peculiar cant in which the petition abounds, and from the sprinkling of bad grammar which adorns it, we are half inclined to suspect that it is the Major's own handywork. At all events, it is curious to see how he reasons on it. It is curious to see how the Major reasons on this fact:—

“Doubtless the legislature of Tortola may be mistaken in their opinions; but the mere fact of their agreeing to sign such a petition shows they really did think, that the labour of the African apprentices, when free, would not be useful to them or the colonists generally.

“And this fact alone, my Lord, is calculated to excite important reflections, as to the character of the free Africans for industry in West Indian agriculture.

“Is it probable that mere prejudice against the colour of a man's skin could ever induce any body of people, like the Tortola petitioners, to make a request so apparently absurd, as that of removing from their colony a numerous body of Africans, consisting of able-bodied men and women, if they were as willing as they were capable of working, and increasing the value of the land now given to pasturage, for want of cultivators to be employed therein?”\*

We earnestly request our readers to observe the consistency of Major Moody. When his object is to prove that whites and blacks cannot amalgamate on equal terms, in one political society, he exaggerates every circumstance which tends to keep them asunder. The physical differences between the races, he tells us, practically defeat benevolent laws. No act of parliament, no order in council, can surmount the difficulty.† Where these differences exist, the principles of republican equality are forgotten by the strongest republican. Marriage becomes an unnatural prostitution. The Haytian refuses to admit the white to possess property within the sphere of negro domination. The most humane and enlightened citizen of the United States can discover no means of benefiting the free African, but by sending him to a distance from men of European blood. “I should ill perform my duty,” says the Major, “if I suppressed all mention of a physical cause like this, which in practice is found to have an effect so powerful, however the philanthropist or the philosopher may regret it, and however it may be beyond their power to remove it by legislative means.”‡ But, when it is desirable to prove the idleness of the free African, this omnipotent physical cause, this instinct against which the best and wisest men struggle in vain, which counteracts the attraction of sex, and defies the authority of law, sinks into a “mere prejudice against the colour of a man's skin,” an idle fancy, which never could induce any body of people to remove able-bodied men and women from their country, if those men and women were willing to work. Are all the free negroes of North America infirm, or are they all unwilling to work? They live in a temperate climate, and to them the Major's theory does not apply. Yet the whites are subscribing to transport them to another country. Why should we suppose the planters of Tortola to be superior to feelings,

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\* First Part of Major Moody's Report, p. 125.

† Second Part of Major Moody's Report, pp. 20, 21.

‡ *Ibid.* p. 21.

which some of the most respectable men in the world are disposed to gratify, by sending thousands of people, at a great expense, from a country greatly understocked with hands?

It is true that the apprenticed Africans were not employed in the cultivation of the soil. The cause is evident. They could not legally be so employed. The order in council, under the authority of which they were put out to service, provided that no woman should be employed in tillage. The blank form of indenture sent out by the government contained a similar restriction with regard to the males.

We are, however, inclined to believe with the Major, that these people, if they had been left to take their own course, would not have employed themselves in agriculture. Those who have become masters of their time, rarely do so employ themselves. We will go further. We allow that very few of the free blacks in our West Indian islands will undergo the drudgery of cultivating the ground. Major Moody seems to think that, when this is granted, all his principles follow of course. But we can by no means agree with him. In order to prove that the natives of tropical countries entertain a peculiar aversion to agricultural labour, it is by no means sufficient to show that certain freemen, living in the torrid zone, do not choose to engage in agricultural labour. It is, we humbly conceive, necessary also to show, that the wages of agricultural labour are, at the place and time in question, at least as high as those which can be obtained by industry of another description. It by no means follows, that a man feels an insurmountable dislike to the business of setting canes, because he will not set canes for sixpence a day, when he can earn a shilling by making baskets. We might as well say, that the English people dislike agricultural labour, because Major Moody prefers making systems to making ditches.

Obvious as these considerations are, it is perfectly clear that Major Moody has overlooked them. From the Appendix to his own Report it appears, that in every West Indian island the wages of the artisan are much greater than those of the cultivator. In Tortola, for example, a carpenter earns three shillings sterling a day, a cartwright or a cooper four shillings and sixpence, a sawyer six shillings; an able-bodied field negro, under the most advantageous circumstances, nine pounds a year, about seven-pence a day, allowing for holidays. And because a free African prefers six shillings to seven-pence, we are told that he has a natural and invincible aversion to agriculture!—because he prefers wealth to poverty, we are to conclude that he prefers repose to wealth. Such is the mode of reasoning which the Major designates as the philosophy of labour.

But, says the Major, all employments, excepting those of the cultivator and the domestic servant, are only occasional. There is little demand for the labour of the carpenter, the cooper, and the sawyer. Let us suppose the demand to be so incredibly small, that the carpenter can obtain work only one day in six, the cooper one day in nine, and the sawyer one day in twelve; still the amount of their earnings will be greater than if they broke clods almost daily through the whole year. Of two employments which yield equal wages, the inhabitants of all countries, both within and without the tropics, will choose that which requires the least labour. Major Moody seems throughout his Report to imagine, that people in the temperate zone work for the sake of working; that they consider labour, not as an evil to be en-



dured for the sake of a good produced by it, but as a blessing, from which the wages are a sort of drawback; that they would rather work three days for a shilling, than one day for half-a-crown. The case, he may be assured, is by no means such as he supposes. If he will make proper enquiries he will learn, that, even where the thermometer stands at the lowest, no man will choose a laborious employment, when he can obtain equal remuneration with less trouble in another line. But it is unnecessary to resort to this argument; for it is perfectly clear, on Major Moody's own showing, that the demand for mechanical industry, though occasional and small, is still sufficient to render the business of an artisan much more lucrative than that of a field labourer.

"I have shown," says he, "that the sugar-planter himself, obtaining 287 days' labour on the very cheapest terms, could not have afforded to give more than about 9*l.* per annum for labourers, and therefore, that he never could hope to induce any liberated African to work steadily for such wages, when the liberated African could obtain from 15*l.* to 21*l.* per annum by the irregular labour of occasionally cutting firewood, grass, or catching fish, &c. . . . .

"This is the most favourable view of the case; for the fact is, the sugar-planter, on the very best soils in Tortola, could only afford to give 9*l.* per annum; but in soils of average fertility he could only afford 6*l.* 15*s.* per annum to the labourer, even if the planter gave up all profits on his stock, consisting of lands, buildings, and machinery. If the liberated negro would not labour steadily for 9*l.* per annum, it is clear he would be less likely to work for 6*l.* 15*s.* per annum; but if he did not work for less than that sum, the planter in Tortola could obtain no profit on stock, and consequently could have no motive for employing any person to work for such wages. The white race, being unable to work, must in this, as in all similar cases, perish, or abandon their country and property to the blacks, who can work, but who, as I have shown, are not likely to make use of more voluntary steady exertion than will afford the means of subsistence in the lowlands of the torrid zone, where the pleasure of repose forms so great an ingredient in the happiness of mankind, whether whites, blacks, or Indians." \*

We really stand aghast at the extravagance of a writer who supposes that the principle which leads a man to prefer light labour and twenty-one pounds, to hard labour and six pounds fifteen shillings, is a principle of which the operation is confined to the torrid zone! But the matter may be put on a very short issue. Let Major Moody find any tropical country in which the inhabitants prefer mechanical trades to field labour, when higher advantages are offered to the field labourer than to the mechanic. He will then have done what he has not done hitherto. He will have adduced one fact bearing on the question.

If the circumstances which we have been considering prove any thing, they appear to prove the inexpediency of the coercive system. The effect of that system in the West Indies has been to produce a glut of agricultural labour, and a scarcity of mechanical dexterity. The discipline of a plantation may stimulate a sluggish body; but it has no tendency to stimulate a sluggish mind. It calls forth a certain quantity of muscular exertion; but it does not encourage that ingenuity which is necessary to the artisan. This is the only explanation which at present occurs to us of the enormous price which skilled labour fetches in a country in which the cultivator can barely obtain a subsistence. We offer it, however, with diffidence, as the result of a very hasty consideration of the subject. But it is with no feeling of diffidence that we pronounce the whole argument of the Major absurd. That he has con-

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\* Second Part of Major Moody's Report, p. 72.

vinced himself, we do not doubt. Indeed he has given the best proof of sincerity: for he has acted up to his theory; and left us, we must confess, in some doubt whether to admire him more as an active or as a speculative politician.

Many of the African apprentices emigrated from Tortola to the Danish island of St. Thomas, some with the consent of their masters, and others without it. Why they did so, is evident from the account which the Major himself gives. The wages were higher in St. Thomas than in Tortola. But such theorists as the Major are subject to illusions as strange as those which haunted Don Quixote. To the visionary knight every inn was a castle, every ass a charger, and every basin a helmet. To the Major every fact, though explicable on ten thousand obvious suppositions, is a confirmation of his darling hypothesis. He gives the following account of his opinions, and of his consequent measures:—

“The occupations followed by the apprentices in the Danish island of St. Thomas, on these occasions, were generally the irregular and occasional industry of porters, servants on board vessels, &c., in which they often got comparatively high wages, which enabled them to work for money at one time in order to live, without working for a longer or shorter period; such a mode of existence being more agreeable to them than steady and regular industry affording employment during the whole year.

“From this irregular application to certain kinds of labour and dislike to that of agriculture, it was my wish to turn the attention of the African apprentices; and therefore I was anxious to prevent their running away to the Danish island of St. Thomas, or being sent there. His Excellency Governor Van Scholton afforded me every facility in removing them; but they soon returned again, as the proximity of the islands, and the frequent intercourse, rendered it impossible to prevent those Africans from going who might wish it, either from the severe treatment of their employer, or their own wish to be masters of their time. It will also be seen that in St. Thomas they were liable to be taken up and sold as slaves, as was actually the case with one apprentice. It is not undeserving of remark, that not one of the apprentices who thus withdrew themselves from Tortola ever hired themselves to agricultural labour for any fixed period.

“The occasional high wages in irregular kinds of industry, however uncertain, appear to have pleased them better than the permanent rewards procured by an employment less exposed to uncertainty, but which required a steady exertion.”\*

What the permanent rewards of agricultural labour were in Tortola, we have seen. The planter would have found it ruinous on most estates to give more than six pounds fifteen shillings a year, or about four-pence a day. Unless, therefore, they were much higher in St. Thomas, it is surely not extraordinary that they did not induce these apprentices to quit the employments to which, not by their own choice, but by the orders of the government, they had been trained, for a pursuit uncongenial to all their habits. How often is it that an Englishman, who has served his apprenticeship to an artisan, hires himself to agricultural labour when he can find work in his own line?

But we will pass by the absurdity of condemning people for preferring high wages with little labour, to low wages with severe labour. We have other objections to make. The Major has told us that the African apprentices could not legally be employed in agriculture on the island of Tortola. If so, we wish to know how their dislike of agricultural labour could be their motive for quitting Tortola; or how, by bringing them back to Tortola, he could improve their habits in that respect?

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\* First Part of Major Moody's Report, p. 57.



To bring a man by main force from a residence which he likes, and to place him in the hands of an employer acknowledged to be cruel, for fear that he may possibly be made a slave, seems to us also a somewhat curious proceeding, and deserves notice, as being the only indication of zeal for liberty which the Major appears to have betrayed during the whole course of his mission.

The Major might perhaps be justified in exerting himself to recover those apprentices who had emigrated without the consent of their masters; but, with regard to the rest, his conduct appears to have been equally absurd and mischievous. He repeatedly tells us that Tortola is a poor island. It appears from the schedules, that he was in the habit of asking the masters and mistresses, whether their apprentices, after the term of service should have expired, would be able to support themselves. In the case of some most respectable and industrious workmen, the answer was, that they possessed all the qualifications which would enable them to earn a livelihood; but that Tortola was too poor to afford them an adequate field; and this was evidently the cause which induced so many to transport themselves to St. Thomas. Of all the innumerable instances in which public functionaries have exposed their ignorance by officiously meddling with matters of which individuals ought to be left to judge for themselves, we remember none more conspicuous than that which Major Moody has thus recorded against himself.

But it seems the industry of these emigrants, and indeed of the free blacks generally, is not regular or steady. These are words of which Major Moody is particularly fond, and which he generally honours with *Italics*. We have, throughout this article, taken the facts as he states them, and contented ourselves with exposing the absurdity of his inferences. We shall do so now. We will grant that the free blacks do not work so steadily as the slaves, or as the labourers in many other countries. But how does Major Moody connect this unsteadiness with the climate? To us it appears to be the universal effect of an advance in wages, an effect not confined to tropical countries, but daily and hourly witnessed in England by every man who attends to the habits of the lower orders. Let us suppose, that an English manufacturer can provide himself with those indulgences which use has rendered necessary to his comfort for ten shillings a week, and that he can earn ten shillings a week by working steadily twelve hours a day. In that case, he probably will work twelve hours a day. But let us suppose that the wages of his labour rise to thirty shillings. Will he still continue to work twelve hours a day, for the purpose of trebling his present enjoyments, or of laying up a hoard against bad times? Notoriously not. He will perhaps work four days in the week, and thus earn twenty shillings, a sum larger than that which he formerly obtained, but less than that which he might obtain if he chose to labour as he formerly laboured. When the wages of the workman rise, he every where takes out, if we may so express ourselves, some portion of the rise in the form of repose. This is the real explanation of that unsteadiness on which Major Moody dwells so much—an unsteadiness which cannot surprise any person who has ever talked with an English manufacturer, or ever heard the name of Saint Monday. It appears by his own report, that a negro slave works from Monday morning to Saturday night on the sugar grounds of Tortola, and receives what is equivalent to something less than half-a-crown in return. But he ceases to be a slave, and becomes his own master; and then he finds that by cutting firewood, an employment which requires no great skill,

he can earn eight shillings and four-pence a week. By working every other day he can procure better food and better clothes than ever he had before. In no country from the Pole to the Equator, would a labourer under such circumstances work steadily. The Major considers it as a strange phenomenon, peculiar to the torrid zone, that these people lay up little against seasons of sickness and distress—as if this were not almost universally the case among the far more intelligent population of England—as if we did not regularly see our artisans thronging to the alehouse when wages are high, and to the pawnbroker's shop when they are low—as if we were not annually raising millions, in order to save the working classes from the misery which otherwise would be the consequence of their own improvidence.

We are not the advocates of idleness and imprudence. The question before us is, not whether it be desirable that men all over the world should labour more steadily than they now do; but whether the laws which regulate labour within the tropics differ from those which are in operation elsewhere. This is a question which never can be settled, merely by comparing the quantity of work done in different places. By pursuing such a course, we should establish a separate law of labour for every country, and for every trade in every country. The free African does not work so steadily as the Englishman. But the wild Indian, by the Major's own account, works still less steadily than the African. The Chinese labourer, on the other hand, works more steadily than the Englishman. In this island, the industry of the porter or the waterman is less steady than the industry of the ploughman. But the great general principle is the same in all. All will work extremely hard rather than miss the comforts to which they have been habituated; and all, when they find it possible to obtain their accustomed comforts with less than their accustomed labour, will not work so hard as they formerly worked, merely to increase them. The real point to be ascertained, therefore, is, whether the free African is content to miss his usual enjoyments, not whether he works steadily or not; for the Chinese peasant would work as irregularly as the Englishman, and the Englishman as irregularly as the negro, if this could be done without any diminution of comforts. Now, it does not appear from any passage in the whole Report, that the free Blacks are retrograding in their mode of living. It appears, on the contrary, that their work, however irregular, does in fact enable them to live more comfortably than they ever did as slaves. The unsteadiness, therefore, of which they are accused, if it be an argument for coercing them, is equally an argument for coercing the spinners of Manchester and the grinders of Sheffield.

The next case which we shall notice is, that of the native Indians within the tropics. That these savages have a great aversion to steady labour, and that they have made scarcely any advances towards civilisation, we readily admit. Major Moody speaks on this subject with authority; for it seems that, when he visited one of their tribes, they forgot to boil the pot for him, and put him off with a speech, which he has reported at length, instead of a meal.\* He, as usual, attributes their habits to the heat of the climate. But let us consider that the Indians of North America, with much greater advantages, live in the same manner. A most enlightened and prosperous community has arisen in their vicinity. Many benevolent men have attempted to correct their

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\* Second Part of Major Moody's Report, p. 63.



roving propensities, and to inspire them with a taste for those comforts which industry alone can procure. They still obstinately adhere to their old mode of life. The independence, the strong excitement, the occasional periods of intense exertion, the long intervals of repose, have become delightful and almost necessary to them. It is well known that Europeans, who have lived among them for any length of time, are strangely fascinated by the pleasures of that state of society, and even by its sufferings and hazards. Among ourselves, the Gipsy race, one of the most beautiful and intelligent on the face of the earth, has lived for centuries in a similar manner. Those singular outcasts have been surrounded on every side by the great works of human labour. The advantages of industry were forced upon their notice. The roads on which they travelled, the hedges under which they rested, the hen-roosts which furnished their repast, the silver which crossed their palms — all must have constantly reminded them of the conveniences and luxuries which are to be obtained by steady exertion. They were persecuted under a thousand pretexts, whipped for vagrants, imprisoned for poachers, ducked for witches. The severest laws were enacted against them. To consort with them was long a capital offence. Yet a remnant of the race still preserves its peculiar language and manners — still prefers a tattered tent and a chance-meal of carrion to a warm house and a comfortable dinner. If the habits of the Indians of Guiana prove that slavery is necessary within the tropics, the habits of the Mohawks and Gipsies will equally prove, that it is necessary in the temperate zone. The heat cannot be the cause of that which is found alike in the coldest and in the hottest countries.

Major Moody gives a long account of the Maroon settlements near Surinam. These settlements were first formed by slaves, who fled from the plantations on the coast, about the year 1667. The society was, during the following century, augmented from time to time by fresh reinforcements of fugitive negroes. This supply, however, has now been for many years stopped. It is perfectly true, that these people were long contented with a bare subsistence, and that little of steady agricultural industry has ever existed amongst them. The Major again recurs to physical causes, and the heat of the sun. A better explanation may be given in one word, insecurity. During about one hundred years, the Maroons were absolutely run down like mad dogs. It appears from the work of Captain Stedman, to which the Major himself alludes, that those who fell into the hands of the whites were hung up by hooks thrust into their ribs, torn to pieces on the rack, or roasted on slow fires. They attempted to avoid the danger, by frequently changing, and carefully concealing their residence. The accidental crowing of a cock, had brought destruction on a whole tribe. That a people thus situated should labour to acquire property which they could not enjoy — that they should engage in employments which would necessarily attach them to a particular spot, was not to be expected. Their habits necessarily became irregular and ferocious. They plundered the colony — they plundered each other — they lived by hunting and fishing. The only productions of the earth which they cultivated, were such as could be speedily reared, and easily concealed. But during the last fifty years, these tribes have enjoyed a greater degree of security; and from the statement of Major Moody, who has himself visited that country, and who, though a wretched logician, is an unexceptionable witness, it appears, that they are rapidly advancing in civilisation;



that they have acquired a sense of new wants, and a relish for new pleasures ; that agriculture has taken a more regular form ; and that the vices and miseries of savage life are disappearing together.

“ The young men among the Maroons acknowledged, that the conduct of the chiefs had become much better, in respect of not interfering with the wives of others, and that every body now could have his own wife. . . . .

“ I observed, that they had adopted the system of sometimes domesticating wild animals, and rearing those already domesticated for food ; that instead of always boucaning their meats, like the Indians, they now often used salt when they could get it ; and, finally, that instead of depending on the forests for fruits, or cultivating roots which were soon reaped, and could easily be concealed, they had generally adopted the banana and plantain as a food, which requires about twelve months to produce its fruits, and the tree obtains a considerable height. . . .

“ I also found, that a certain degree of occasional industry had taken place among the Maroons. Some of these young men had devoted a few days in the year to cutting down trees which nature had planted. From such occasional labour they were enabled to procure finery for a favourite female, a better gun, or a new axe.” \*

Surely this statement is most encouraging. No sooner was security given to these Maroons, than improvement commenced. A single generation has sufficed to change these hunters into cultivators of the earth, to teach them the use of domestic animals, to awaken among them a taste for the luxuries and distinctions of polished societies. That their labour is still only occasional we grant. But this, we cannot too often repeat, is not the question. If occasional labour will supply the inhabitant of the temperate zone with comforts greater than those to which he is accustomed, he will labour only occasionally. These negroes are not only willing to work rather than forego their usual comforts, but are also willing to make some addition to their labour, for the sake of some addition to their comforts. Nothing more can be said for the labourers of any country. The principle which has made England and Holland what they are, is evidently at work in the thickets of Surinam.

That the habits of the fugitives were altogether idle and irregular till within the last fifty years, is nothing to the purpose. How much of regular industry was formerly to be found among the outlawed moss-troopers of our border, or in the proscribed clan of the Macgregors ? Down to a very late period, a large part of the Scotch people was as averse to steady industry as any tribe of Maroons. In the year 1698, Fletcher of Saltoun called the attention of the Scottish parliament to this horrible evil. “ This country,” says he, “ has always swarmed with such numbers of idle vagabonds as no laws could ever restrain. There are at this day in Scotland two hundred thousand people begging from door to door, living without any regard or subjection to the laws of the land, or to even those of God and nature. No magistrate could ever discover or be informed which way one in a hundred of these wretches died, or that ever they were baptized.” He advises the government to set them to work ; but he strongly represents the difficulty of such an undertaking. “ That sort of people is so desperately wicked, such enemies of all work and labour, and, which is yet more amazing, so proud in esteeming their own condition above that which they will be sure to call slavery, that, unless prevented by the utmost industry and diligence, upon the first publication of any orders for putting in execution such a design, they will rather die with hunger in caves and dens, and murder their young children.” Fletcher was a brave, honest,

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\* Second Part of Major Moody's Report, pages 49, 50. 52.



and sensible man. He had fought and suffered for liberty. Yet the circumstances of his country shook his faith in the true principles of government. He looked with dismay on the mountains occupied by lawless chiefs and their gangs, and the lowlands cursed by the depredations of some plunderers and the protection of others. Every where he saw swarms of robbers and beggars. He contrasted this desolate prospect with the spectacle which Holland presented, the miracles which human industry had there achieved, a country rescued from the ocean, vast and splendid cities, ports crowded with ships, meadows cultivated to the highest point, canals along which hundreds of boats were constantly passing, mercantile houses of which the daily payments exceeded the whole rental of the Highlands, an immense population whose habits were sober and laborious, and who acquired their comforts, not by injuring, but by benefiting their neighbours. He did not sufficiently consider that this state of things sprung from the wisdom and vigour of a government, which ensured to every man the fruits of his exertions, and protected equally the pleasures of every class, from the pipe of the mechanic to the picture-gallery and the tulip-garden of the Burgo-master; — that in Scotland, on the contrary, the police was feeble, and the gentry rich in men and destitute of money; that robbery was in consequence common; that people will not build barns to be burned, or rear cattle to be lifted; that insecurity produced idleness, and idleness crimes; that these crimes again augmented the insecurity from which they had sprung. He overlooked these circumstances, and attributed the evil to the want of coercion. He censured the weak humanity of those fathers of the church who had represented slavery as inconsistent with Christianity. He cited those texts with which the controversies of our own times have rendered us so familiar. Finally, he proposed to convert the lower classes into domestic bondsmen. His arguments were at least as plausible as those of Major Moody. But how signally has the event refuted them! Slavery was not established in Scotland. On the contrary, the changes which have taken place there have been favourable to personal liberty. The power of the chiefs has been destroyed. Security has been given to the capitalist and to the labourer. Could Fletcher now revisit Scotland, he would find a country which might well bear a comparison with his favourite Holland.

The history of the Maroons of Surinam appears to us strictly analogous to that of the Scottish peasantry. In both cases insecurity produced idleness. In both security produces industry. The African community, indeed, in the middle of the last century was far more barbarous than any part of the Scotch nation has ever been since the dawn of authentic history. Not one of the fugitives had ever been taught to read and write. The traces of civilisation which they brought from the colony were very slight, and were soon effaced by the habits of a lawless and perilous life. Of late, however, their progress has been rapid. Judging of the future by the past, we entertain a strong hope that they will soon form a flourishing and respectable society. At all events, we are sure that their condition affords no ground for believing that the labourer, within the tropics, acts on principles different from those which regulate his conduct elsewhere.

We now come to the case of Hayti, a case on which Major Moody and his disciples place the strongest reliance. The Report tells us, that Toussaint, Christophe, and Boyer, have all found it necessary to compel the free negroes of that island to employ themselves in agriculture —

that exportation has diminished — that the quantity of coffee now produced is much smaller than that which was grown under the French government — that the cultivation of sugar is abandoned — that the Haytians have not only ceased to export that article, but have begun to import it — that the men indulge themselves in repose, and force the women to work for them ; and, finally, that this dislike of labour can be explained only by the heat of the climate, and can be subdued only by coercion.

Now we have to say, in the first place, that the proofs which the Major brings refute each other. If, as he states, the Haytians are coerced, and have been coerced during the last thirty years, their idleness may be an excellent argument against slavery, but can be no argument against liberty. If it be said that the coercion employed in Hayti is not sufficiently severe, we answer thus : — We never denied, that of two kinds of coercion, the more severe is likely to be the more efficient. Men can be induced to work only by two motives, hope and fear ; the former is the motive of the free labourer, the latter of the slave. We hold that, in the long run, hope will answer best. But we are perfectly ready to admit, that a strong fear will stimulate industry more powerfully than a weak fear. The case of Hayti, therefore, can at most only prove that severe slavery answers its purpose better than lenient slavery. It can prove nothing for slavery against freedom. But the Major is not entitled to use two contradictory arguments. One or the other he must abandon. If he chooses to reason on the decrees of Toussaint and Christophe, he has no right to talk of the decrease of production. If, on the other hand, he insists on the idleness of the Haytians, he must admit their liberty. If they are not free, their idleness can be no argument against freedom.

But we will do more than expose the inconsistency of the Major. We will take both suppositions successively, and show that neither of them can affect the present question.

First, then, let it be supposed that a coercive system is established in Hayti. Major Moody seems to think that this fact, if admitted, is sufficient to decide the controversy.

“ The annexed regulations,” says he, “ of Toussaint, Desfourmeau, and Christophe, as well as those of President Boyer, intended for people in circumstances similar to those of the liberated Africans, appear to prove practically that some such measures are necessary as those which I have submitted as the result of my own personal observation and experience, in the control of human labour in different climes, and under various circumstances.” \*

We must altogether dissent from this doctrine. It does not appear to us quite self-evident, that every law which every government may choose to make is necessarily a wise law. We have sometimes been inclined to suspect that, even in this enlightened country, legislators have interfered in matters which should have been left to take their own course. An English parliament formerly thought fit to limit the wages of labour. This proceeding does not perfectly satisfy us, that wages had previously been higher than they should have been. Elizabeth, unquestionably the greatest sovereign that ever governed England, passed those laws for the support of the poor, which, though in seeming and intention most humane, have produced more evil than all the cruelties of Nero and Maximin. We have just seen that, at the close of

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\* Second Part of Major Moody's Report, p. 90.



the seventeenth century, a most respectable and enlightened Scotch gentleman thought slavery the only cure for the maladies of his country. Christophe was not destitute of talents. Toussaint was a man of great genius and unblemished integrity, a brave soldier, and in many respects a wise statesman. But both these men had been slaves. Both were ignorant of history and political economy. That idleness and disorders should follow a general civil war, was perfectly natural. That rulers, accustomed to a system of compulsory labour, should think such a system the only cure for those evils, is equally natural. But what inference can be drawn from such circumstances?

The negligence with which Major Moody has arranged his Appendix is most extraordinary. He has, with strange inconsistency, given us no copy of the decree of Toussaint in the original, and no translation of the decree of Christophe. The decree of Boyer, the most important of the three, he has not thought fit to publish at all; though he repeatedly mentions it in terms which seem to imply that he has seen it. Our readers are probably aware, that the decree of Toussaint, or rather the Major's translation of it, was retouched by some of the statesmen of Jamaica, docked of the first and last paragraphs, which would at once have betrayed its date, and sent over by the Assembly to England, as a new law of President Boyer. This forgery, the silliest and most impudent that has been attempted within our remembrance, was at once exposed. The real decree, if there be such a decree, is not yet before the public.

The decree of Toussaint was issued in a time of such extreme confusion, that even if we were to admit its expediency, which we are very far from doing, we should not be bound to draw any general conclusion from it. All the reasonings which Major Moody founds on the decree of Christophe may be refuted by this simple answer — that decree lays at least as many restraints on the capitalist as on the labourer. It directs him to provide machinery and mills. It limits the amount of his live stock. It prescribes the circumstances under which he may form new plantations of coffee. It enjoins the manner in which he is to press his canes and to clean his cotton. The Major reasons thus: Christophe compelled the field-negroes to work. Hence it follows, that men who live in hot climates will not cultivate the soil steadily without compulsion. We may surely say, with equal justice, Christophe prescribed the manner in which the proprietor was to employ his capital. It is, therefore, to be inferred, that a capitalist in a hot climate cannot judge of his own interests, and that the government ought to take the management of his concerns out of his hands. If the Major will not adopt this conclusion, he must abandon his own. All our readers will admit, that a prince who could lay the capitalist under such restrictions as those which we have mentioned, must have been ignorant of political science, and prone to interfere in cases where legislative interference is foolish and pernicious. What conclusion, then, can be justly drawn from the restraints imposed by such a ruler on the freedom of the peasant?

We have thus disposed of the first hypothesis, namely, that the Haytians are coerced. We will proceed to the second. Let it be supposed, that the Haytians are not coerced. In that case we say, that if they do not export as much as formerly, it will not necessarily follow that they do not work as much as formerly; and that if they do not work as much as formerly, it still will not follow that their idleness proceeds from physical causes, or forms any exception to the general principles which regulate labour.

The first great cause which depresses the industry of the Haytians, is



the necessity of keeping up large and costly establishments. All who, since the expulsion of the French, have governed that country, have wisely and honourably sacrificed every other consideration to the preservation of independence. Large armies have been kept up. A considerable part of the population has consequently been supported in an unproductive employment; and a heavy burden has been laid on the industry of the rest. Major Moody quotes the following passage from the narrative of a most respectable and benevolent American, Mr. Dewey:—

“ Throughout the island the women perform the principal part of the labour in the field and in the house. . . . I was often moved with pity for their lot, though I rejoiced that the burden was now voluntary, and admired the spirit of women who could so readily perform the work of the men, that the men may be employed in the defence and preservation of their liberties.”

The Major pounces on the fact stated by Mr. Dewey; but, with the amiable condescension of a superior nature, gently corrects his inferences.

“ That Mr. Dewey, and pious persons like him, do state the facts which he observed correctly, I am quite convinced; but when he, and those who reason in his manner, assign causes as solely producing the effect, it is then that error glides into their statements.” \*

We are not so completely convinced as the Major seems to be, that all pious persons state correctly such facts as Mr. Dewey has observed: but we are sure, that Mr. Dewey must be the most ungrateful of men, if he is not grateful for such compliments. Indeed, the style which the Major always adopts towards philanthropists reminds us of Dogberry patting Verges on the back:— “ A good old man, Sir! He will be talking. Well said, i’ faith, neighbour. An two men ride of a horse, one must ride behind. An honest soul, i’ faith, as ever broke bread. But God is to be worshipped. All men are not alike.” But we must go on with the argument of our philosophical commissioner.

“ Any person who has travelled among people in a backward state of knowledge and social civilisation, people who never experienced what slavery was, must have observed, as I have done, that the burden of agricultural labour is generally imposed on the females, by the arbitrary power exercised over them by the males. . . . .

“ Whilst an examination into the actual population of Hayti, and the real number of the males actually withdrawn from agricultural pursuits for those of military service, at the time Mr. Dewey made his observations, would show, *that*, though the cause assigned by him might have some effect, *that*, in point of fact, a more powerful influence would probably be found in the action of causes springing from a different source *than that* assigned by him as the true cause; and whilst these other powerful causes are left in action, little practical good is effected by the removal of a minor influence.” †

We have not time to notice the innumerable beauties of this headless and endless sentence, in which a double allowance of *thats* compensates for the absence of a nominative case and a verb:—those who study the works of the Major must take such grammar as they can get, and be thankful. But, does he advance any reason, or the shadow of any reason, for dissenting from the opinion formed by a man whose honesty he acknowledges, on a point on which it is scarcely possible to be mistaken? No man of common sense can live three days in a country without finding out, whether it is by idleness, or by military duties, that the males are prevented from working. But Major Moody reasons thus:—

\* Second Part of Major Moody’s Report, p. 38.

† Ibid. p. 39,



Savages, from their propensity to indolence, make their women work for them. The Haytians make their women work for them; therefore the Haytians are indolent savages;—an exquisite specimen of syllogistic reasoning! Horses are quadrupeds: but a pig is a quadruped; therefore a pig is a horse. The dullest of the grave-diggers in Hamlet would have been ashamed of such an argal.

The Major surely does not mean to deny, that, in civilised and industrious nations, circumstances similar to those which exist in Hayti have compelled the women to engage in agricultural labour. History abounds with such instances. When, fourteen years ago, the Prussians rose against the French, almost the whole harvest of Silesia and Upper Saxony was gathered in by females. The conscriptions of Bonaparte frequently produced the same effect. The Major says, indeed, or rather we, endowing his purposes with Syntax, say for him, that if the numbers of the Haytian people and of the Haytian army were ascertained, the causes assigned by Mr. Dewey would be found to have produced only part of the effect. But what evidence does he offer? Where are his facts and his reasonings on these facts? Does he know what the population of Hayti may be? Does he know how large its army may be? If he knows, why does he not tell us? If he does not know, how can he tell what might be the result of an examination into those particulars? It is something too much that a writer, who, when he tries to demonstrate, never demonstrates any thing but his own ignorance of the art of reasoning, should expect to be implicitly believed, when he merely dogmatises.

We grant, that the Haytians do not rear any great quantity of sugar. But can this circumstance be explained only by supposing that they are averse to the labour necessary for that purpose? When capital is withdrawn from a particular trade, a political economist is commonly inclined to suspect, that the profits are smaller than those which may be obtained in other lines of business. Now, it is a notorious fact, that the profits which the cultivation of sugar yields are, in all our West Indian islands, extremely low; that the business is carried on only because a large quantity of capital has already been fixed in forms useless for every other purpose; and that, if this fixed capital were to be suddenly destroyed, no fresh investment would take place. A man who has purchased a costly apparatus for the purpose of carrying on a particular manufacture will not necessarily change his business because he finds that his gains are smaller than those which he might obtain elsewhere. He will generally prefer a small profit to a dead loss, and rather take two per cent. upon his first investment than let that investment perish altogether, suffer his machinery to lie idle, and turn the remains of his fortune to a pursuit in which he might make five per cent. This, we believe, is the only cause which keeps up the cultivation of sugar in Jamaica and Antigua.

In Hayti this cause has ceased to operate. Most of the fixed capital necessary for the sugar-trade was destroyed by the war which followed the liberation of the negroes. The machinery which remained was employed as formerly. But it was not replaced as it fell to decay. This at once explains the gradual decrease of production. A similar decrease, from similar causes, is taking place in our oldest colonies. But let us even suppose that the cultivation of sugar was likely, under ordinary circumstances, to flourish in Hayti, it still remains to be considered what security capital invested in that business would have enjoyed. A



short time back it seemed by no means improbable that France would assert her rights to the sovereignty of the island by arms. In the year 1814, the strongest apprehensions were entertained. A murderous and devastating war, a war in which quarter would neither have been given nor taken, was to be expected. The plan of defence which the rulers of Hayti contemplated was suited to so terrible a crisis. It was intended to turn the coast into a desert, to set fire to the buildings, to fall back on the interior fastnesses of the country, and by constant skirmishes, by hunger, and by the effects of a climate so fatal to Europeans, to wear out the invading army. This design was avowed by the government in publications which have found their way to England. It was justified by circumstances, and it could scarcely have failed of success. But it is evident that the remotest prospect of such an emergency would alone have deterred any capitalist from sinking his property in the extensive and valuable machinery necessary to a sugar-planter.

It is true that there is a diminution in the quantity of coffee exported from Hayti. But the cause of the diminution is obvious. The taxes on that article are exorbitantly high. The territorial impost raised on the plantation, and the customs which must be paid previous to exportation, make up a duty of sixty per cent. on the prime cost. If the Haytians are to be free, they must have an army. If they are to have an army, they must raise money; and this may possibly be the best way of raising it. But it is evidently impossible that a commodity thus burdened can maintain a competition with the produce of countries where no taxes exist.

We therefore think it by no means improbable that the Haytians may have abandoned the cultivation of sugar and coffee, not from idleness, but from prudence; that they may have been as industriously employed as their enslaved ancestors, though in a different manner. All the testimony which we have ever been able to procure tends to prove that they are at least industrious enough to live comfortably, and multiply rapidly under the weight of a very heavy taxation.

We have shown that the decrease in the exports of Hayti does not necessarily prove a decrease in the industry of the people. But we also maintain, that, even if we were to admit that the Haytians work less steadily than formerly, Major Moody has no right to attribute that circumstance to the influence of climate. His error in this and in many other parts of his work proceeds from an utter ignorance of the habits of labourers in the temperate zone. What those habits are, we have already stated. If an English labourer, who has hitherto been unable to obtain the enjoyments to which he is accustomed without working three hundred days a year, should find himself able to obtain those enjoyments by working a hundred days a year, he will not continue to work three hundred days a year. He will make some addition to his pleasures, but he will abate largely of his exertions. He will probably work only on the alternate days. The case of the Haytian is the same. As a slave he worked twelve months in the year, and received perhaps as much as he would have been able to raise in one month, if he had worked on his own account. He was liberated—he found that, by working for two months, he could procure luxuries of which he had never dreamed. If he worked unsteadily, he did only what an Englishman, in the same circumstances, would have done. In order to prove that labour in Hayti follows a law different from that which is in oper-



ation among ourselves, it is necessary to prove, not merely that the Haytian works unsteadily, but that he will forego comforts to which he is accustomed, rather than work steadily.

This Major Moody has not even asserted of the Haytians, or of any other class of tropical labourers. He has, therefore, altogether failed to show, that the natives of the torrid zone cannot be safely left to the influence of those principles which have most effectually promoted civilisation in Europe. If the law of labour be every where the same, and he has said nothing which induces us to doubt that it is so, that unsteadiness of which he speaks will, at least in its extreme degree, last only for a time, which, compared with the life of a nation, is but as a day in the life of man. The luxuries of one generation will become the necessities of the next. As new desires are awakened, greater exertions will be necessary. This cause, co-operating with that increase of population of which the Major himself admits the effect, will, in less than a century, make the Haytian labourer what the English labourer now is.

The last case which we shall consider is, that of the free negroes who emigrated from North America to Hayti. They were in number about six thousand. President Boyer undertook to defray the whole expense of their passage, and to support them for four months after their arrival—a clear proof that the people of Hayti are industrious enough to place at the disposal of the government funds more than sufficient to defray its ordinary charges. We give the sixth and seventh articles of Boyer's instruction to the agent employed by him on this occasion, as Major Moody states them. It is on these that his whole argument turns.

“Article VI. — To regulate better the interests of the emigrants, it will be proper to let them know in detail, what the government of the republic is disposed to do, to assure their future well-being and that of their children, on the sole condition of their being good and industrious citizens. You are authorised, in concert with the agents of the different societies, and before civil authority, to make arrangements with heads of families, or other emigrants who can unite twelve people able to work, and also to stipulate that the government will give them a portion of land sufficient to employ twelve persons, and on which may be raised coffee, cotton, maize, pease, and other vegetables and provisions; and after they have well improved the said quantity of land, which will not be less than thirty-six acres in extent, or twelve carreaces, government will give a perpetual title to the said land to these twelve people, their heirs, and assigns.

“Article VII. — Those of the emigrants who prefer applying themselves individually to the culture of the earth, either by renting lands already improved, which they will till, or by working in the field to share the produce with the proprietor, must also engage themselves by a legal act that, on arriving in Hayti, they will make the above-mentioned arrangements; and this they must do before judges of the peace; so that, on their arrival here, they will be obliged to apply themselves to agriculture, and not be liable to become vagrants.”\*

On these passages the Major reasons thus:—

“In Hayti, even at present, under the judicious government of President Boyer, we find the free and intelligent American blacks receiving land for nothing, having their expenses paid, and the produce of the land to be for their own advantage, obliged, by a legal act, to apply themselves to a kind of labour which is manifestly and clearly intended to better their condition.

“Why should a free man be thus obliged to act in a manner which the most ignorant person might discover was a duty incumbent on him, and that the result

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\* Second Part of Major Moody's Report, p. 30.

would be for his advantage? The legal act and its penalties, after such a grant of land, would appear pre-eminently absurd in England." \*

We, for our own parts, can conceive nothing more pre-eminently absurd, than for a man to quote and comment on what he has never read. This is clearly the case with the Major. The emigrants who were to be obliged by a legal act to apply themselves to labour, were *not* those who were to receive land for nothing, but those who were to rent it, or to hire themselves out as labourers under others. The Major has applied the provisions of the Seventh Article to the class mentioned in the Sixth. So disgraceful an instance of carelessness we never saw in any official document.

Whether the President acted well or ill, is not the question. The principle on which he proceeded cannot be mistaken. He was about to advance a considerable sum for the purpose of transporting these people to Hayti. He appears, as far as we can judge from these instructions, to have exacted no security from the higher and most respectable class. But he thought it probable, we suppose, that many of those idle and profligate persons who abound in all great cities, and who are peculiarly likely to abound in a degraded caste, beggars and thieves, the refuse of the North American bridewells, might accept his proposals, merely that they might live for some months at free cost, and then return to their old habits. He therefore naturally required some assurance that the poorer emigrants intended to support themselves by their industry before he would agree to advance their subsistence.

The Major proceeds thus :—

"Your Lordship may observe, in the instructions of the President, that only certain modes of rewarding the labour of the free American Black are mentioned, viz. renting land already improved, working in the field to share the produce with the labourer, or, by being proprietors of land, to cultivate on their own account without either rent or purchase, having land from the free gift of the government.

"The ordinary mode of rewarding the labourer by the payment of wages, as in England or the East Indies, where the country is fully peopled, is never once mentioned or alluded to by President Boyer, who may be fairly supposed to understand the situation of the country which he governs." †

For the sake of the Haytians, we hope that Boyer understands the country which he governs better than the Major understands the subject on which he writes. Who, before, ever thought of mentioning the renting of land as a mode of rewarding the labourer? The renting of land is a transaction between the proprietor of the soil and the capitalist. Can Major Moody possibly imagine, that, in any part of the world, the labourer, as a labourer, pays rent, or receives it? He surely must know, that those emigrants who rented land, must have rented it in the capacity, not of labourers, but of capitalists; that they must have paid the rent out of the profits of their stock, not out of the gains of their labour; that even when a man works on his own account, the gains of his labour, though not generally called wages, are wages to all intents and purposes, and, though popularly confounded with his profits, follow a law altogether different. But Boyer, says Major Moody, never mentions wages. How can wages be better defined, than as the share of the produce allowed to the labourer? Does Major Moody conceive that wages can be paid only in money, or that money wages represent

\* Second Part of Major Moody's Report, p. 32.

† Ibid.



any thing but that share of the produce of which the President speaks? He goes on, however, floundering deeper and deeper in absurdity at every step.

“In the present constitution of Hayti, as administered by President Boyer, in ‘*Titre sur l’Etat Politique des Citoyens*,’ I find, under the 47th act, that the rights of citizenship are suspended, as regards domestics working for wages (‘*par l’état de domestique à gages*’), in that very republican country, where a person, ignorant of the effect of physical causes, would naturally conclude that it would be most unjust to deprive a man of his right of citizenship, because he preferred one mode of subsisting himself to another, which the government wished to encourage.” \*

Physical causes again! We should like to know whether these physical causes operate in France. In the French Constitution of the year 1791, we find the following Article:—

“To be an active citizen, it is necessary not to be in a menial situation, namely, that of a servant receiving wages.”

It seems, therefore, that this law which, in the opinion of Major Moody, nothing but the heat of the torrid zone will explain—this law, which any person, ignorant of physical causes, would consider as grossly unjust, is copied from the Institutions of a great and enlightened European nation. We can assure him, that a little knowledge of history is now and then very useful to a person who undertakes to speculate on politics.

We must return for a moment to the North American emigrants. Much mismanagement seems to have taken place with respect to them. They were received with cordiality, and pampered with the utmost profusion, by the liberal inhabitants of Port-au-Prince. They had left a country where they had always been treated as the lowest of mankind; they had landed in a country where they were overwhelmed with caresses and presents. The heads of many were turned by the change. Many came from cities, and, totally unaccustomed to agricultural labour, found themselves transported into the midst of an agricultural community. The government, with more generosity than wisdom, suffered them to eat their rations in idleness. This is a short summary of the narrative of Mr. Dewey, who was himself on the spot. He continues thus:—

“Although these and other circumstances damped the ardour of some of the emigrants, and rendered them dissatisfied with their situation, yet I have uniformly found the industrious and the most respectable, and such as were fitted to be cultivators of the soil, contented with their condition and prospects, and convinced that great advantages were put within their reach. By far the greater part of the emigrants I saw were satisfied with their change of country, and many were so much pleased that they would not return on any consideration, and said, that they never felt at home before, that they have never felt what it was to be in a country where there colour was not despised. But these were such as went out expecting to meet difficulties, and not to live in the city; and they are so numerous, and pursuing their course with so much enterprise, that I feel there is no more reason for surprise at the industry and contentment which they exhibit, than at the dissatisfaction which has brought back 200, and will perhaps bring back a few more.” †

All this statement the Major quotes as triumphantly as if it were favourable to his hypothesis, or as if it were not of itself sufficient to refute every syllable that he has written. Those who came from towns shrunk from agricultural labour. Is this a circumstance peculiar to any climate? Let Major Moody try the same experiment in this country with the foot-

\* Second Part of Major Moody’s Report, p. 32.

† Ibid. p. 35.

men and shopmen of London, and see what success he will have. But those who were accustomed to tillage applied themselves to it with vigour; and this though they came from a cold country, and must therefore be supposed to have been peculiarly sensible of the influence of tropical heat. It is clear, therefore, that their desire to better their condition surmounted that love of repose which, according to the new philosophy of labour, can, in warm, fertile, and thinly peopled countries, be surmounted only by the fear of punishment.

We have now gone through the principal topics of which the Major has treated. We have done him more than justice. We have arranged his chaotic mass of facts and theories; we have frequently translated his language into English; we have refrained from quoting the exquisitely ridiculous similitudes and allusions with which he has set off his reasonings; we have repeatedly taken on ourselves the burden of the proof in cases where, by all the rules of logic, we might have imposed it on him. Against us, he cannot resort to his ordinary modes of defence: he cannot charge us with ignorance of local circumstances, for almost all the facts on which we have argued are taken from his own Report. He cannot sneer at us as pious, benevolent people, misled by a blind hatred of slavery, eager in the pursuit of a laudable end, but ignorant of the means by which alone it can be attained. We have treated the question as a question purely scientific. We have reasoned as if we had been reasoning, not about men and women, but about spinning-jeanies and power-looms.

Point by point we have refuted his whole theory. We have shown that the phenomena which he attributes to the atmosphere of the torrid zone are found in the most temperate climates; and that, if coercion be desirable in the case of the West Indian labourer, the stocks, the branding iron, and the forty stripes save one, ought to be, without delay, introduced into England.

There are still some parts of the subject on which, if this article were not already too long, we should wish to dwell. Coercion, according to Major Moody, is necessary only in those tropical countries in which the population does not press on the means of subsistence. He holds, that the multiplication of the species will at length render it superfluous. It would be easy to show that this remedy is incompatible with the evil; that the deadly labour, or, as he would call it, the steady labour, which the West Indian sugar-planter exacts, destroys life with frightful rapidity; that the only colonies in which the slaves keep up their numbers are those in which the cultivation of sugar has altogether ceased, or has greatly diminished; and that, in those settlements in which it is extensively and profitably carried on, the population *decreases* at a rate which portends its speedy extinction. To say, therefore, that the negroes of the sugar colonies must continue slaves till their numbers shall have greatly increased, is to say, in decent and humane phraseology, that they must continue slaves till the whole race is exterminated.

At some future time we may resume this subject. We may then attempt to explain a principle, which, though established by long experience, still appears to many people paradoxical, namely, that a rise in the price of sugar, while it renders the slave more valuable, tends at the same time to abridge his life. We may then also endeavour to show how completely such a system is at variance with the principles on which alone colonisation can be defended. When a great country scatters, in some vast and fertile wilderness, the seeds of a civilised popu-



lation, fosters and protects the infant community through the period of helplessness, and rears it into a mighty nation, the measure is not only beneficial to mankind, but may answer as a mercantile speculation. The sums which were advanced for the support and defence of a few emigrants, struggling with difficulties and surrounded by dangers, are repaid by an extensive and lucrative commerce with flourishing and populous regions, which, but for those emigrants, would still have been inhabited only by savages and beasts of prey. Thus, in spite of all the errors which our ancestors committed, both during their connection with the North American provinces, and at the time of separation, we are inclined to think that England has, on the whole, obtained great benefits from them. From our dominions in New South Wales, if judiciously governed, great advantages may also be derived. But what advantage can we derive from colonies in which the population, under a cruel and grinding system of oppression, is rapidly wasting away? The planter, we must suppose, knows his own interest. If he chooses to wear his slave to death by exacting from him an exorbitant quantity of work, we must suppose that he gains more by the work than he loses by the death.

But his capital is not the only capital which has been sunk in those countries. Who is to repay the English nation for the treasure which has been expended in governing and defending them? If we had made Jamaica what we have made Massachussets, if we had raised up in Guiana a population like that of New York, we should indeed have been repaid. But of such a result under the present system there is no hope. It is not improbable, that some who are now alive may see the last negro disappear from our trans-Atlantic possessions. After having squandered a sum, which, if judiciously employed, might have called into existence a great, rich, and enlightened people, which might have spread our arts, our laws, and our language from the banks of the Maragnon to the Mexican sea, we shall again leave our territories deserts as we found them, without one memorial to prove that a civilised man ever set foot on their shores.

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#### DISABILITIES OF THE WEST INDIA MULATTOES.\*

THE great field of Colonial Policy offers few matters to our view more important at all times, but in the existing posture of affairs more peculiarly pressing upon our attention, than the situation of the people of colour. Those unfortunate persons form a very numerous class of our fellow-subjects; and their industry and general good conduct render them still more worthy than their numbers to attract our notice. They are highly important in respect of wealth; and they suffer under privations entailed upon them by no fault of their own, but arising from the crimes and follies of others, and affixed to their colour by the decrees of colonial wisdom and humanity. Dr. Lushington, the able, enlightened, and honest friend of oppressed men, of what colour soever, has lately added to the very great obligations he had before conferred upon the cause of justice and sound policy, by bringing before Parliament and the country this interesting subject, in a speech replete with en-

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\* Report of the African Institution for 1827. Vol. xlv. p. 218. June, 1827.



larged views, animated by a spirit of true philanthropy, and tempered by an extraordinary portion of moderation. The same question which Dr. Lushington so ably raised in the Commons, was afterwards most admirably stated in the Lords, and with great effect, by Lord Harrowby, President of His Majesty's Council. That enlightened, accomplished, and virtuous nobleman, has always approved himself the firm and powerful friend of the oppressed negro, in all the situations where his eminent talents have been exerted. We shall proceed, without further preface, to state the case which so lamentably adds one to the numberless examples heretofore given of the unfitness of West Indian legislators to discharge their high functions, and of the absolute necessity which exists for the prompt and efficacious interference of the mother-country, in order to preserve her colonial empire from all the worst mischiefs that can result from power abused on the one hand, and vengeance long deferred and signally exacted on the other.

The important island of Jamaica was conquered from Spain during the brilliant period of the Protectorate, in the year 1655. Charles the Second, soon after his restoration in 1661, granted the island a charter, under which the House of Assembly was constituted. By that document, it is solemnly declared, that "the children of subjects of England, to be born in Jamaica, shall, from their respective births, be reputed to be, and shall be, free denizens of England, holding the same privileges, to all intents and purposes, as the free-born subjects of England;"—a superfluous grant, it is true, because, long before the Restoration, at the accession of the King's grandfather to the English Crown, the general principle had been solemnly recognised by the Judges in the famous case of the *Post nati* (commonly called *Calvin's Case*), that all persons born within the King's allegiance are natural-born subjects of the English Crown. Nevertheless, to remove all doubts, the grant is thus expressly made to all persons, without distinction of colour or race, and by the self-same instrument which constituted the Jamaica Legislature a lawful body.

Nothing appears to have been done against these rights during the reigns of Charles, James II., and King William; but, as if the good Queen Anne's time were fated to be in all parts of the world, America as well as Ireland, and to all subdivisions of persons, mulattoes as well as Catholics, the era of disqualification, either for opinions which they should not, and for complexion which they could not, change, in 1711 an act was passed (10 Ann. cap. 4.), excluding from all public offices all persons of colour, Indians, and Jews. In 1733 this policy was further followed up by the act 6 Geo. 2. disqualifying all persons of colour not in the fourth degree from the negro stock, from voting at elections. Previous to this period, a custom had been introduced of rejecting the evidence of coloured people against whites in every case; but it was doubted whether or not they could bear witness against one another. This doubt was solved in 1748, by the 21 Geo. 2. cap. 7. which legalised the customary exclusion of coloured evidence in all cases against whites, but let it in as against each other.

Notwithstanding these serious disabilities, the mixed race grew rapidly in numbers and in wealth; for it was found by the House of Assembly in 1762, that property of between £200,000 and £300,000 in value, including four estates, had devolved to them by devise and bequest at different times. Men's affections, not to mention their feelings of justice, towards the innocent offspring of their love, lawful or



illicit, were found not to obey exactly the dictates of West Indian policy; and legislative measures were required to force them into courses more congenial to the savage spirit which presided over those councils. The Assembly, accordingly, which derived its own existence and authority entirely from the same charter that gave the mulattoes all the rights of English subjects, "to all intents and purposes, from the dates of their respective births," passed a law, restraining their power of taking, by devise or bequest, to the value of £2000 currency, and limiting their power of purchasing landed property to the same inconsiderable sum.

In 1713 the first attempt was made to exclude mulattoes from all employment on plantations, by a general act, which, being transmitted to England, was refused the Royal assent; and thus began the system of *annual bills*, to defraud the Crown of its negative voice. Each bill bound the planters, under severe penalties, to fill every situation in their employ with a white person. Those bills continued up to the last year, when the governor refused his assent to the deficiency law, because it contained provisions of peculiar hardship respecting the absentees.

In all this history of exclusion and disqualification, it is cheering to meet with one exception. After the Maroon war in 1796, when the men of colour had distinguished themselves, so as to extort the unqualified approbation of the Assembly, and to command the hearty gratitude of the whole community, a bill was passed, allowing them to give evidence against white persons,—in cases of assault upon the witnesses themselves! It graciously pleased those lords of the world to decree that the race so nearly allied to themselves by blood, and to whose gallantry and faithful attachment they owed their existence, should no longer be kicked and beaten like dogs, without redress; but the privilege of giving evidence was strictly confined to the case of the person himself who was assaulted; and no mulatto could call another as his witness, if tried for any offence. These restrictions, and all others on the evidence of free people of colour, were done away in 1813; and in 1816 they were permitted to navigate their own vessels coastwise, which, ever since 1712, had been prohibited, by a law requiring vessels of a certain burden to be manned by whites. They were now also allowed to drive carts and hackney coaches, a right formerly withheld by the same spirit of curious and niggardly legislation. The restrictions upon bequests and devises were also repealed in 1813.

There still remain, however, the most grievous of all the disabilities under which the coloured race have been laid. They cannot exercise the elective franchise; they are excluded from all offices and places of trust; and, worse than all, they cannot serve in any case upon juries. Let us for a moment consider the effects of these disqualifications.

The mulattoes are subject to the laws made by the House of Assembly. By those laws they are regulated, governed, and taxed. But, rich and accomplished and intelligent as many of them are, they can neither sit in that house, nor exercise their voice in saying who shall sit there; nor in any way lift that voice, as free men should do, in any other than the notes of suppliant petition. And to whom is the unchecked dominion confided over this race of men, who must have no voice, either direct or indirect, in the councils that are to rule their destiny? To a rival colour; to a *hostile* caste; to the men who have created all these disabilities, in order to exclude them; to those who prove, by the very



act of engrossing all the power over the degraded race, that they hate and fear them, and feel their subjection as necessary for their own security and ease. Let Christian people make the case their own, according to the favourite maxim of their religion — the maxim so often quoted, and so seldom followed. How would the people of England like to be ruled and taxed by a parliament all Irish — still more, by one all French or all American? But that bears a faint semblance to our case. Peace and fashion may reconcile us to Frenchmen; our interest, the fear of losing Ireland, and having England crippled, may even reconcile us to Irishmen; and the interests of trade may almost make us friends with the Americans. But between the people of colour, and their representatives and rulers, there is no common tie, except that of humanity, which is outraged by the one party, and only remembered in the other, to show that it exasperates all animosities, and that cattle would be better treated than human beasts of burden. The hand of Providence has stamped on the oppressed a mark that cannot be effaced, and the Ethiopian must be washed white before his lot in being subject to the hostile caste can become so gentle as the case we have been supposing, of the English nation ruled by an American parliament, chosen in America, and not in England.

The exclusion from all places renders the deprivation of the elective franchise still more severe. The mulatto only feels the ruling powers, by coming in contact with his natural enemy; he only sees the constituted authorities of his country, when he looks at the hostile colour. Power is never mitigated by kindred feelings; on the contrary, it is exasperated by the instinctive sense of natural diversity, by all the factitious prejudices of customs and laws, and by all the feelings of fear which tyranny creates at once for its own augmentation, and its own punishment.

But look to the worst of all these disabilities. Whatever mulatto comes into a court of justice — a court by outward form resembling what elsewhere are courts in which justice presides — he comes among judges and jurors who are his natural enemies and oppressors. He is injured in his person, he is despoiled of his property, he is restrained of his liberty, by a white man; his child or his wife is taken from him; his feelings are outraged; his sense of honour — for all our cruelty has not rooted all sense of honour from the dingy bosom — his sense of honour is wounded — a sense the more exquisite that it has survived every effort of his oppressor to extinguish it. In mockery, he is bid to bend his footsteps towards the halls of justice, and tauntingly told that they fling open wide their gates to men of every complexion and every race. He hurries thither: the doors are blackened with the white clouds — of his foes; the ermine decks the shoulders — of his foes; the jury-box is filled with twelve — of his foes, — selected from the motley population he lives in, for the express purpose of doing injustice between him and his adversary. But we hear it said, “This is insidious — there is no such purpose in the selection.” Why, then, we would ask, is the selection made? Answer us this, ye who charge us with distorting facts, or rather with perverting inferences. Answer and tell us, *why* the jury is to be purged of all colour, when the man of colour is tried? — freed from all community of feeling and opinion with him, and made up of men expressly and avowedly taken because they have a common colour and origin with the mulatto’s antagonist? Who can name another reason for choosing them all whites, except that, if chosen indis-



criminally of the two hues, there would be jurors of the same race with the man of colour; whereas the principle is, to have them all of the white man's blood and lineage? Again, let the Christian wrongdoer — for whoso consents to wrong, doeth wrong — resort to the golden rule of his Master, and put himself in the place of his tawny brother. How should we, in Old England, like being tried for our lives by a French or an American jury, sitting under the superintendence of a French or American judge? But that is a poor approximation to the case in hand. Rather let us ask, how would you — Englishmen and whites as you are — like being tried by a jury all brown mulattoes, or all black negroes, with an African in the seat of the presiding judge? How would you like being told, not only that all your judges were not to be whites like yourself, but that not one of them was to be other than aliens to your name, and complexion, and race? You have already answered the question; you have, wherever you had the power, refused to be tried by judges, any one of whom bore the marks of the hostile colour; and yet you desire the mulatto to think he has justice, when you try him by judges, every one of whom is taken from among his enemies and oppressors! In England, you suffer not the meanest foreigner, of the most hostile nation, or the most barbarous, to be tried by a jury of Englishmen; he must have at least one half of foreign race and birth. No matter from what lineage he is sprung, be it ever so base; from what coast he has come hither, be it ever so hostile; before what gods he bends, be they ever so savage; by what barbarities his caste is disfigured, be they ever so revolting — he may be a rude idolater from New Holland, or a barbarous soldier of Mahomet, or a vile and prostituted adorer of the Juggernaut; — he cannot be tried by an English tribunal. But the civilised mulatto, begotten by an English father; born in the bosom of an English settlement; trained, it may be, in the refinements of English society; — is condemned, by his fellow Christian, to be tried by a jury far more likely to do him injustice, than the English could by possibility be to wrong any infidel on whose superstitious rites the sun ever rose; and he is yet further condemned to hear this fellow Christian boast, that he has done his unfortunate and unoffending brother justice.

It may now be fit, as principles alone, how incontrovertible soever, are rarely appealed to with effect, to ask what *interest* we have in perpetuating such grievances as these? — what safety there is in keeping up such a cause of offence in all people of colour? And this question may best be solved by enquiring into the importance of the coloured order. Their numbers in Jamaica alone are said to exceed 30,000, and those of the free blacks 10,000. They, therefore, greatly exceed the whites in numerical force; and the mulattoes form one half of the militia — being, from the necessity of the case, freely intrusted with the possession of arms. But how much more important an aspect do those numbers — those armed numbers — wear, when we reflect that they stand between a handful of whites and the sable myriads of African slaves by whom they are surrounded, daily and nightly, in town and in country, in the house and in the field, and to whose divisions and want of concert, but, more than all, want of arms and of leaders, that handful owes its prolonged existence in the Charaibbean Seas. Moreover, by natural and political causes, the numbers of the whites are daily decreasing; by the like causes, the mulattoes are on the increase. Then let the wealth of the degraded caste be taken into account. Their

property is now reckoned at upwards of three millions. One gentleman of that colour has 150,000*l.* of his own; another, a white planter, left as much to his coloured children; a third left 200,000*l.* in the same way; and a fourth gave 200,000*l.* to a mulatto friend who survived him, and 50,000*l.* to a black woman. Among the petitioners who made the late forcible appeal to parliament, through Dr. Lushington, three inhabitants of one parish were possessed of property to the amount of 120,000*l.* This is a body of men, we may rest assured, who will wax great in wealth as well as strong in numbers; and it becomes us to think betimes whether it consists best with our interest, and with our safety, to have them for our allies or our enemies.

The existence of the grievance is too palpable to be denied; the planters, therefore, essay to mitigate the asperity of its features; and, failing in this too, they would fain persuade us that the true remedy is by sending the coloured men to seek redress individually at the hands of the Colonial Assemblies, from which they are by law excluded. "Go," say they, "and bring in private naturalisation bills, as if you were aliens. The fees are now diminished, and by paying your attorneys heavy costs, you may gradually, and one by one, succeed to the enjoyment of your just and natural rights." To this the answer is easy, and it is decisive. If the remedy be fit to mention, it must be commensurate with the mischief. Who, then, recommends bringing in eight thousand naturalisation bills? But all — all would pass as a matter of course. Is it so? Then what better reason can you give for the obvious process of consolidating all the eight thousand bills into one general act? The honourable-minded among the mulattoes feel an honest repugnance to seek this kind of relief, which the wealthy only can obtain; while, from partaking in it at all, the poor are for ever excluded — the poor, upon whom the oppression of the disabling laws presses by far the most severely.

We have said much on this painfully interesting question; yet the subject remains unexhausted. The legislature of the mother country has been powerfully appealed to; the whites of the colonies have begun to feel its pressure; there have, within the last two years, been petitions from the whites in parishes of Jamaica, bearing to their Assembly, and to us at home, the unsuborned testimony of most unsuspected witnesses against one of the worst practical evils which the destruction of the grand evil of all, the African Slave Trade, has left behind it. Threats are much objected to by the Islands, and justly, if any one ever launched such threats at them. But there is a difference between a threat and a warning — a vain, braggart menace, and a fair, open, timely notice. The duty of the Imperial Legislature is to act as the rights of its colonial subjects and the safety of the state demand; and to discharge its own functions for the common good, if the Colonial Assemblies forget or abandon theirs. Incident to this high duty towards the Empire, is another towards the Assemblies, the neglect whereof would give these jealous bodies just cause of complaint. It is fitting to give them due intimation of *what must be done in England*, if nothing be done in the West Indies. Then, there is a wide difference between acting upon this solemn warning and doing the just things which will render all proceedings here unnecessary, and basely yielding to the menace of an adversary, and doing wrong to escape from his anger. Let not the Assemblies, then, any longer neglect this warning. It has oftentimes been given, no doubt, and by a power most slow to



follow it up—but followed up it will and it must be, unless right and justice have ceased to find favour in the sight of England.

### NATURAL DEATH OF SLAVERY.\*

THERE are many subjects which must be approached with caution, on account of the magnitude of the interests they are supposed to involve: but there are many, also, as to which it ultimately turns out that the caution, so suggested, has only increased the hazards it was adopted to obviate, and embarrassed instead of facilitating the efforts it was expected to favour. The wise and philanthropic persons who struggled so gloriously for the abolition of the Slave Trade, were enemies of course to the state of slavery generally, and must have looked forward to its total abolition, as the natural consummation of their system. But, aware of the great influence of the West India proprietors, they feared that their whole scheme might be crushed in its outset, if they had ventured in the beginning to propose so extensive a reformation. They confined themselves, therefore, to the abolition of that detestable traffic; and trusted, we fear upon very insufficient grounds, to the effect of that measure in gradually mitigating, and at last extinguishing altogether, the miseries of servitude. Experience, however, has shown how completely this reliance has been disappointed; and instead of finding that the abolition of the trade has led to the mitigation or gradual extinction of slavery—the best-informed advocates of the negroes are now compelled to look to the mitigation of slavery as their best security for the substantial repression of the trade. This is distinctly stated in the *19th Report of the African Institution*. “As in the Abolition of the Slave Trade,” they say, “we originally sought the mitigation of slavery, so are we now driven to consider whether any other efficient means are left us, *than that of reversing our course of proceeding*; and whether we must not look henceforward to the mitigation and extinction of Slavery, as our only security for the abolition of the Slave Trade. We cannot, unfortunately, *compel* other nations to abandon it; and it seems too probable that they are not to be persuaded; but by a determined encouragement of free labour we may make it not worth pursuing.” The error of the early abolitionists upon this subject is well worth pointing out; for it still continues, we fear, to perplex our policy on this most important topic. They supposed that an advance in the price of slaves, and the impossibility of procuring fresh supplies by importation, would induce the planters to take better care of them. But this they would not have expected, if they had duly considered the nature of the system; for high prices of produce and of slaves (which are in fact synonymous) are, in truth, the very foundations of slavery, and enhance all its evils, by enabling the masters to pay for the luxury of cruelty and oppression; whilst, on the contrary, its approaching extinction is always announced by a gradually diminishing value, both of slaves and of produce, until it almost imperceptibly glides into freedom. Men will always maintain themselves more cheaply than they can be maintained

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\* A Short Review of the Slave Trade and Slavery, with Considerations on the Benefit which would arise from cultivating Tropical Productions by Free Labour. Vol. xlv. p. 490. October, 1827.

by another ; and will always do more work for their own maintenance and emolument than for the mere profit of a master. Wherever labourers can be had in abundance, therefore, and the produce of labour is consequently at its lowest price, it is impossible that slaves can be profitably maintained ; and it is only an unnaturally high, or monopoly price, both of labour and its products, that can support that most unnatural and detestable institution.

We are disposed to attribute to a forgetfulness of these plain principles, the course which has been pursued by Mr. Huskisson, who appears in some degree to have thrown the broad shield of his influence over a system completely at variance with his general principles, not only in the last debate upon the question of the East India trade, but also in a former debate on that subject, when he is reported to have said that he “knew opinions were entertained *out* of that House, but he was happy to say *not in it*, that low prices of produce were productive of benefit to the slaves.” Now, if the competition of free labour has been the means of changing slavery into freedom, in all countries where that happy change has been made, and if it can only have had that effect by reducing the price of the article produced, to the great ultimate benefit both of the labourer and his employer, we cannot but think that this statement gives a very unsatisfactory view of the principles both of the ministers and of the legislature. If true, however, it may serve to abate our surprise at the late Report of the Directors of the British, Irish, and Colonial Silk Company, which company had the sanction of the names of several members of the administration, and in which we find it stated, that “the directors had every disposition to extend this branch of culture to the *West India Islands* ; favourable arrangements were anticipated, both from the Government and the House of Assembly, and a large tract of country could have been obtained in the mountainous districts ; *but after very minute enquiry, the price of labour was found to oppose an insurmountable obstacle to any attempt in that quarter.*” This, it must be owned, was a wonderful discovery, to have been made by such very minute enquiries, under the direction of the first ministers of state ! It is well they did not also discover that the means, (*viz.* bounties and prohibitions of all rival commodities,) which render the culture of *sugar* profitable, might do just the same for the culture of *silk*, notwithstanding the “high price of labour.”

Some of the most enlightened statesmen of the United States, we observe, are patronising a scheme for the colonisation of free blacks, and contemplating the expenditure of very large sums of money to relieve their country in this way from the farther extension, and also to effect the ultimate extinction, of the acknowledged and the enormous evils of slavery : and yet a fuller examination, we conceive, could not fail to convince them that the increase of the slave population, which they seem so much to dread, and the competition of the free labour of those very black men they are now sending away, is the natural and the certain means of extinguishing slavery, whilst their proceedings must tend to strengthen and perpetuate its bonds.

Even the little we have now said should be enough, we think, to prove the necessity of further investigation : and why is this not to take place ? Because, forsooth, the great interest the colonists have in the question makes it impossible to discuss it without irritation. The corn growers, the ship owners, and the silk manufacturers, all of them considered that their interests were involved in the monopoly enjoyed by



their different trades; and yet this did not prevent the investigation of the subject, or an attempt to remove those monopolies. The only difference is, that, in this case, humanity calls for a change, as loudly as sound policy; and therefore, it seems, it must not be attempted, because there will be irritation if the subject be thoroughly discussed! If human suffering were not involved in the question, the case would be investigated sooner, and the system of slavery would sooner be abolished. This does seem to us very strange doctrine. In the beginning of the discussion, many of the friends of humanity rejected all considerations of policy; and now it seems as if they must turn round and reject all considerations of humanity, if they wish to hasten the accomplishment of their object. Whether this circumstance *ought* to occasion delay or not, it is an admitted fact that it *does* so; and, that we may now avoid this dreaded irritation, we shall take care to speak of slaves only as we would do of any other property. The question of free trade, as respects West Indian property, plainly need not involve any irritation, unless the West Indians themselves introduce it; and it would surely be carrying concession a little too far, were we to consent to the continuance of this odious system, and shrink from all investigation, merely because the parties interested might introduce into the discussion topics by which they would themselves be irritated.

In slavery, man is held and considered as property; and this necessarily supposes that value is attached to the possession. Like all other property, however, its value fluctuates according to circumstances. Scarcity advances the price, and abundance reduces it. Commodities may be so abundant, compared with the demand for them, as to have no exchangeable value. This is actually the case with *men* in Ireland, where, by their abundance, they have not only lost their value, but are become so burdensome to the state, that it is in contemplation to send them away, at the expense of millions. But where man has no saleable value, it is plain that slavery cannot exist with profit. On the contrary, where men are scarce, and good land is abundant and cheap, or where the price of produce is high, a man by his labour can raise much more than will maintain him. In such circumstances, therefore, if men are their own masters, they will either cultivate their own land, or they will demand high wages for their labour; and if a man is the property of another, his value will be high. But, by the laws of our nature, if men are placed in favourable, or even in ordinary circumstances, their numbers will increase; and, of course, their value will diminish, until they are *worth nothing*, to hold in slavery; and this is the natural and certain extinction of that state, by a course of events advantageous to all parties. If, therefore, it is desirable that its extinction should be effected in the natural course of things, there can be no reasonable ground of opposition: for surely it can never be supposed, that because we have permitted a particular investment of property, we are bound to make it a profitable speculation, in all time coming, by taxes laid upon ourselves for its support.

It may at first appear strange that the entire extinction of the value of any property can be advantageous to the holder of that property; but this will be easily understood, when it is considered that slaves are almost universally employed in the cultivation of the soil (scarcely ever in manufactories, where they would have to contend with free labour), the soil and the slaves belonging to the same person. Now, both the land and the labour are necessary to give the produce; and the price

of the commodity raised comprises, of course, the value of both : whilst that price is unaltered, the price of land and labour, when taken together, must also remain the same ; but though the *united* value of the two constituent parts are unaltered, there may be great relative changes in the value of *each* of them. As men have a natural tendency to increase, their value and the value of their labour diminishes ; but whatever value labour or slaves may lose by this abundance, just so much will the land gain by its scarcity ; for land is only scarce because people are abundant — or people (if employed in agriculture) are only scarce when land is abundant.

The master, therefore, would neither gain nor lose by the entire extinction of slavery, provided the power and will to labour remained unaltered by the change : but a free man will do more work for his own advantage, than a slave will do by coercion. This increased labour will no doubt be, in the first place, wholly for the advantage of the enfranchised man ; but if we suppose that he perform *double* the quantity of labour, it is plain that this will have just the same effect as if the *number* of labourers were doubled, which, again, necessarily implies a competition for employment, and a consequent *reduction of wages*, followed by a corresponding increase in the value and the profits of land. The landholders would therefore ultimately reap a large proportion of the advantage derived from the increased quantity of labour performed by the free man. The fact accordingly is proved to be conformable to this anticipation : for we have never heard it surmised that a gradual change from slavery to freedom has been a disadvantage to any country, or to any individual ; and it is impossible that it should be so, if that change follows in the natural course of things.

We have next to consider what would have promoted, or what has retarded this change, —and why this natural course of things has made so little progress in the British colonies, or the United States of America. In the United States, it is certain, that the increase of the slave population has been in full operation, and would have made *men cheap*, and *land dear*, long before this time, if this had not been prevented by the boundless extent of new and fertile land. Thus, when the soils of Virginia had become exhausted by slave cultivation, (for when men do the work of cattle, and use little animal food, fertility is not kept up by green crops, and the soils invariably deteriorate,) then the Virginians became breeders of slaves *for sale* ; and the new and fertile soils in the South Western States found them an extensive market. In our West India Islands, again, land capable of cultivation is in limited extent, and if the slaves in them had increased as in the United States, and the intercolonial slave trade had always been illegal, or had been effectually prevented, the operation of natural causes must long since have converted the slaves, in most of the islands, into free men. What the boundless extent of fertile land has done to maintain slavery in the United States, bounties and prohibitory protections have done in the British Colonies ; for it is just the same thing, whether a bad system is supported by the abundant production of a fertile soil, or by raising the price of the smaller produce by bounties and protections.

So far we have endeavoured to consider slaves as like any other property. But the West Indians themselves now object to this view. They say, liberal prices only can enable the planters to treat their slaves well ; while we, on the contrary, aver, that bounties and protections have paid for the waste and damage, occasioned not only by the absence of



the owners, but by the cruelties and mismanagement inseparable from a delegated authority. The decrease in the number of slaves in the West India Islands, in the six years from 1818 to 1824, has been shown in the *Anti-Slavery Reporter*, No. 26., to be 28,000; whilst an increase, proceeding at the rate of the United States, of Hayti, or of our own Bahama Islands, (being about  $2\frac{1}{2}$  per cent. per annum), ought, on the contrary, to have added 112,000 to the slave population of our Colonies; making a difference of 140,000 in the short period of six years. If the value of this deficient number is taken at 46*l.* a head, which is about the average obtained at sales in execution for debt, it will amount to 6,440,000*l.* Now, the sum paid to the West Indians, by raising the price of their sugar by bounties during those six years, is estimated at 7,200,000*l.*\*; and hence it appears that nearly the whole sum paid in bounties, &c. has been thrown away, in the destruction of slave life through neglect or ill treatment. The planters complain of an unprofitable business, even with all the advantage of bounties and protections! Could they, then, if these had been withdrawn, have continued the system of absence and all its attendant evils? If not, the question whether the slaves would be injured by reducing the price of the produce of their labour, and of course the profits of their masters, is completely set at rest. When the profits of the business will no longer afford the present allowance for cruelty and mismanagement, the cruelty and mismanagement will be discontinued — and not till then!

In America, also, it is a fact generally admitted, that the treatment of slaves is most mild in the northern and middle States, where the profits of slave cultivation are less; and more severe in the south, where its profits are greater. The *decrease* of slaves where their value is 86*l.*, as in Demerara, the most fertile and profitable of our colonies — and their rapid *increase* in the Bahamas, the least productive, and where their value is only 21*l.*, is a further confirmation on this point.

In whatever degree, then, the advancement of knowledge may have increased the happiness, or improved the condition, of mankind in general, that in this particular, we fear, there has been no progress. We have, on the contrary, retrograded; and our slaves are faring worse than they did many centuries ago; for it cannot be denied, that the same means which now maintain slavery in the West Indies, would also have maintained it in this country; and that if the produce of our soil had been obtained by the hoe in the hand of the slave, it might have been so still, if we had taken the same means to exclude the competition of the labour of *freemen, of cattle, and the plough*, in this country, as we are doing to exclude their competition in our western colonies.

Though these causes, to which our ancestors allowed their natural operation, produced the extinction of slavery in this country, and would in time produce the same effect in our West India Colonies, and in the course of their operation would gradually ameliorate the *general* condition of the slaves; yet as they do not change the nature of the

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\* The bounty on the export of refined sugar was estimated to raise the price of all sugar in the British market about 6*s.* per cwt. — but this has lately been reduced to about one half this sum. The protecting duty paid on East India sugar, over and above what is paid on that from the West Indies, still remains at 10*s.* per cwt.

human heart, there would continue to be instances of individual cruelty, so long as man was suffered (whether with profit or not) to hold uncontrolled power over his fellow man. We are not, therefore, contending that this natural course of things should be alone relied upon; but, on the contrary, are anxious that every means should be taken which can hasten that happy event, consistently with the interest of the slave himself. We admit, also, that if, in the pursuit of these, we go so far beyond the natural course of things, as to interfere with the holding as property that which the nation has sanctioned as such, then the question of *compensation* arises, and must be fairly met. But while we admit the necessity of other measures for ameliorating and for facilitating the ultimate extinction of slavery, we must contend that free scope should, *in the first place*, be given to the operation of those causes which have been at least one means of its extinction in all the countries of the world; and that every attempt to effect that object, whilst we leave its main supports in full operation, is in the highest degree absurd, and must be ineffectual. It is like professing a desire to lessen crime, but, at the same time, giving a bounty on stolen goods, and encouraging theft by a high protecting duty on all goods honestly obtained.\*

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\* In addition to the articles I have selected on West India Slavery, the reader will find others well worth perusal in Vol. i. p. 216. Vol. iv. p. 476. Vol. v. p. 209. Vol. vi. p. 326. Vol. viii. pp. 52. 358. Vol. ix. pp. 304. 458. Vol. x. p. 199. vol. xi. p. 145. Vol. xii. p. 355. Vol. xiii. p. 382. Vol. xiv. p. 95. Vol. xix. p. 129. Vol. xxiii. p. 131. Vol. xxiv. p. 106. Vol. xxv. p. 315. Vol. xxxvi. p. 34. vol. xxxviii. p. 168. Vol. xxxix. p. 118. 168. Vol. xlii. p. 479. Vol. xliii. p. 406. Vol. xlv. p. 174.



# APPENDIX.

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No. I.

## LORD BYRON'S POETRY.

See Note, Vol. I. page 307.

IT is contended that poetry is destined to complete a certain cycle or great revolution, accompanying and dependent on a correspondent cycle of the feelings as well as of the manners of society. That, originating in times of turbulence and anarchy, it was at first coarse and vehement; — then pompous and stately; — then affectedly refined and ingenious, — and, finally, gay, witty, discursive, and familiar. That at this stage of refinement, however, mankind become disgusted with the heartless frivolity of their gratifications, and acquire a longing for strong emotions, so that poetry, following the current of popular opinion, is compelled to seek for subjects in the manners of ruder ages, to revive the feats of chivalry, and the loves of romance; or to wander, in search of unbridled passion, amongst nations yet imperfectly civilised. Lastly, that this is the period at which we are now arrived: that a growing appetite for turbulent emotion is the peculiar characteristic of the age; that we are no longer satisfied with viewing the mere effects of strong passion, but require the passion itself to be dissected before our eyes; and that Lord Byron, having surpassed all his contemporaries in this species of moral anatomy, has, of course, attained the pinnacle of popular favour.

Now, we venture to contend that the poetical cycle here described is purely imaginary; and that if any indications of it were, indeed, discoverable in the history of our own poetry, it would not be fair to deduce from them a correspondent cycle of the national “appetite” for any sort of emotions. Language and manners are, from age to age, either progressively improved, or at least changed, and the traces of such changes may be found in the works of contemporary poets; but the passions of mankind are always the same, and always capable of being called out by a proper degree of excitement. If centuries have passed away since the birth of Shakspeare, does it follow that an *appetite* for those emotions, which he alone was able to rouse, lay dormant during the interval, and has only revived within the last twenty years? We greatly doubt the fact, as well as the existence of the symptoms which are adduced in proof of it. The last twenty years have, doubtless, been wonderfully fertile of crimes and miseries; and there have been some persons in this country who have hailed, with joy and praise, every step of that desolating tyranny, which threatened to spread over the world, and awakened in its progress all those strong emotions which are pronounced to be so delectable. But these persons were not very numerous, and certainly not legitimate arbiters of taste, or of poetical talent. In the whole remainder of the nation, we believe that the horrid realities which passed before their eyes did not raise any appetite for scenes of mimic terror; and if Mr. Scott, Mr. Southey, and Lord Byron have transported their readers to the ages of romance, to the wilds of America, or to the shores of Greece, we suspect that they all followed the impulse of their own studies or habits, without dreaming that they thus completed a poetical cycle, or ministered to any taste or appetite peculiar to the present age or country.

Without dwelling any longer on the general objections to this new and fanciful

theory, we now proceed to the point immediately at issue. It is contended, on one hand, that for the purpose of suiting the poetical taste of the present times, “the minds of the great agents must be unmasked for us — and all the anatomy of their throbbing bosoms laid open to our gaze.” We think, on the contrary, that this anatomical operation is essentially unpoetical; and that, therefore, Lord Byron, who is emphatically styled the “searcher of dark bosoms,” is least attractive, and least popular, whenever he attempts to execute this special office. We do not mean to question the extent to which the analysis of mind, or of sensation, is capable of being carried, or to vilipend the delight attendant on such researches: we only contend that the pleasures of intellect are materially different from the pleasures of illusion,—that the two are incompatible; and that the writer who seeks to excite any emotion will never effect this by attempting to analyse its nature and origin; but must content himself with describing its effects, because it is only with these that his readers can be supposed to be conversant. Every passion of the soul has its visible symptoms, by which the correspondent feeling of the observer is instantly awakened; and it is only by the delineation of these symptoms, so correct as to be recognised by the simplest reader, and to produce a momentary illusion, and to call out, by means of the pictured image, the same train of sympathies as would have been excited by the reality, that the poet can possess himself of our imagination and become master of our emotions. The secret sensibility which lurks within our bosoms, which pervades the whole animated frame, and transmits through it the indications of joy or grief, of pleasure or pain, but of which the excess is suffocating and unutterable, cannot itself become the subject of description. To attempt such description is, we think, to exceed the legitimate pretensions of poetry, and to invade the province of metaphysics. On this ground we object to some passages in the *Corsair*, which are intended to represent the prison-thoughts of Conrad. On similar grounds we have more strongly objected to the *Giaour*, — but enough of this. We have stated our opinion, and leave the question for the decision of our readers. — *Quarterly Review*, Vol. x. pp. 455—457.

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## No. II.

### POETRY OF CRABBE.

The following admirable Critique is referred to in Vol. I. page 447. (See Note.)

THE history of Mr. Crabbe as an author has been somewhat singular. He first appeared in that character in the year 1783, and was received in such a manner as might have warranted the hope that his second appearance would not be long delayed. But, too indolent or too unambitious, Mr. Crabbe sunk back into privacy; and five-and-twenty years elapsed before he renewed his claims on the public notice. His increased success on this second occasion does not strike us as matter of surprise. We had become sick of the luscious monotony of Muses who seemed to have been fed only on flowers; and were therefore prepared to receive with indulgence even the rude efforts of a more firm and manly genius. At the same time it must be confessed, that the candidate was in no want of illustrious friends to bring him down (like the deductores of old) to the place of canvass, and to secure, by their influence, the favourable suffrages of his countrymen. Criticism itself could not refuse a smile to the verse which had early obtained the praise of Burke and Johnson, and more recently cheered the dying bed of Fox.

The first glow of admiration, however, is now gone; and sufficient time has since passed to allow of our ascertaining pretty accurately the final judgment of the public respecting the merits of Mr. Crabbe. It is, if we are not mistaken, that he has greatly misapplied great powers; and that, although an able, he is not a pleasing poet. In this judgment we entirely acquiesce.

The peculiarity of this author is, that he wishes to discard every thing like



illusion from poetry. He is the poet of reality, and of reality in low life. His opinions on this subject were announced in the opening of his first poem, "The Village;" and will be best explained by extracting from that work some lines which contain a general enunciation of his system: —

" The village life, and ev'ry care that reigns  
O'er youthful peasants and declining swains;  
What labour yields, and what, that labour past,  
Age in its hour of languor finds at last;  
What form the real picture of the poor,  
Demand a song — the Muse can give no more.

\* \* \* \* \*

On Mincio's banks, in Cæsar's bounteous reign,  
If Tityrus found the golden age again,  
Must sleepy bards the flatt'ring dreams prolong?  
Mechanic echoes of the Mantuan song?  
From Truth and Nature shall we widely stray  
Where Virgil, not where Fancy, leads the way?  
Yes, thus the Muses sing of happy swains,  
Because the Muses never knew their pains.

\* \* \* \* \*

Then shall I dare these real ills to hide  
In tinsel trappings of poetic pride?

\* \* \* \* \*

By such examples taught, I paint the cot  
As Truth will paint it, and as bards will not."

From these extracts, as well as from the constant tenor of his writings, it is clear, that Mr. Crabbe condemns the common representations of rural life and manners as fictitious; that he is determined in his own sketches of them to confine himself, with more than ordinary vigour, to truth and nature; — to draw only "the real picture of the poor," which, be it remembered, must necessarily, according to his opinion, be a picture of sorrow and depravity. Now all this tends greatly to circumscribe, if not completely to destroy, the operation of illusion in poetry; and proceeds on what we conceive to be an entire misconception of the principles on which the pleasure of poetic reading depends. Notwithstanding the saving clause in favour of the privileges of fancy, which is inserted in one of the preceding extracts, the doctrines of Mr. Crabbe appear to us essentially hostile to the highest exercise of the imagination, and we cannot therefore help regarding them with considerable doubt and jealousy.

To talk of binding down poetry to dry representations of the world as it is, seems idle; because it is precisely in order to escape from the world as it is, that we fly to poetry. We turn to it, not that we may see and feel what we see and feel in our daily experience, but that we may be refreshed by other emotions and fairer prospects — that we may take shelter from the realities of life in the paradise of fancy. To spread out a theatre on which this separate and intellectual kind of existence might be enjoyed, has in all ages been the great business of the speculative powers of the species. For this end new worlds have been framed, or the old embellished; imaginary joys and sorrows have been excited; the elements have been peopled with ideal beings. To this moral necessity, the divinities of ancient mythology owed their popularity, if not their birth; and when that visionary creation was dissolved, the same powerful instinct supplied the void with the fays and genii and enchantments of modern romance.

Poetry then, if it would answer the end of its being, must flatter the imagination. It must win the mind to the exercise of its contemplative faculties by striking out pictures on which it may dwell with complacency and delight. It does not follow that these pictures should be exclusively of a gay and smiling nature. The mind is notoriously so constituted as to enjoy, within certain limits, the fictitious representations of sad or terrible things.

But why, it is said, does poetry realise that which has no existence in nature? It is, at least, some answer to the question to observe, that in this respect poetry only does for us more perfectly what, without its assistance, we every day do for ourselves. It is to illusions, whether excited by the art of the poet, or by the secret magic of association, that life owes one of its first charms; and in both cases they give rise to feelings the same in their nature and in their practical effect. The pleasures of memory, for example, are great in exact proportion to the ardour with which the mind embraces this sort of self-deception. When we remember a past event in a very lively manner, what is it but to realise that which has no existence? and this, not only according to the popular mode of stating the fact, but in strict metaphysical truth. Such, too, is, in a striking degree, the case, when a portrait or some other memorial vividly affects us with the imagined presence of a deceased friend; or when we are presented with the prospect of scenes resembling those to which we are attached by interesting recollections, especially if they meet us in a foreign climate. It is the happy observation of this familiar principle which constitutes the beauty of that fine passage in Virgil, where Æneas describes himself as saluting, in a remote country, the gates and towers of a second Troy, and as restored by a view of the copy to the presence of the original:—

“ *Procedo, et parvam Trojam, simulataque magnis  
Pergama, et arentem Xanthi cognomine rivum  
Agnosco, Scæque amplector limina portæ.*”

Some of the emigrants from the north of Scotland to America have, it is said, chosen for their residence situations similar to those which they left; and have even given to the principal features of their new country the names by which the corresponding objects of the old were distinguished. This is only one instance of that desire to encourage illusions which so universally prevails, and which continually leads us to surround ourselves, if the expression may be allowed, with hints and suggestions of the distant or the past.

If, in common life, such artifices may innocently be employed to steal the mind from itself, it is not easy to perceive why they become objectionable in works of taste; and we must, therefore, be allowed still to number them among the legitimate stratagems of the poetic art.

In tracing more particularly the modes by which poetry accomplishes its object of drawing us away from the fatigues of reality, we shall find that, various as they are, they chiefly resolve themselves into two. That object may be effected by a diversion either to subjects that rouse and agitate the mind, as in the fictions of epic and chivalrous romance; or to such as soothe it, as in the representations of rural manners and scenery. Of these two methods, the latter, or that of the pastoral kind, has always, we are inclined to think, been somewhat the more popular. To the mind harassed and overburdened with care, there is something more comforting in the quietness of these subjects, than in the tumult and pomp of more heroic distractions. They furnish, too, a more profound and sensible contrast to the bustling agitations of life. There are few of us, besides, to whom the idea of the country is not recommended by many tender and sacred associations;—by the recollection of early happiness and the pleasures of childhood, by the memory of our first hopes, and of companions who are now gone. Who has not sometimes figuratively adopted the language of the shepherd in Tasso?—

“ *Ma poi ch’ insieme con l’ età fiorita  
Mancò la speme e la baldanza audace,  
Piansi i riposi di quest’ uma il vita,  
E sospirai la mia perduta pace.*”

It may not be irrelevant to add, that the poetry which gratifies these breathings after the repose of humble life may, in every case, be called pastoral: even if not in the vulgar acceptation of that name, yet according to its true and, indeed, its original intent. To affirm, that it is not of the essence of pastoral poetry to treat of sheep and shepherds, may seem a paradox; but the fact is, that these topics cannot be made essential to it, except by a sacrifice of its real to what we may term its verbal character. That which is its distinctive feature, and the



efficient, though not perhaps the ostensible, cause of its popularity, is, that it diverts the mind from ordinary life by soothing and gentle means. It is one peculiar *mode* of answering the common end of all poetry. It takes us out of the cares of the world; and it does so by transporting us to regions of innocent and quiet happiness. We are not snatched from the scene of combat by a whirlwind, but wafted away from it in the folds of some "fair evening cloud." A poem, therefore, may tell of nothing but flocks and swains; of loves carved on trees, and crooks wreathed with flowers; and yet if, while it gives us real pictures, it fail to keep alive that feeling of vernal refreshment and delight which such pictures are formed to inspire, it cannot be truly pastoral. To this main principle, of the *tone of mind* which such a composition ought to cherish, the most celebrated authors in this department have not sufficiently adverted. It sometimes happens that, in their best effusions, a sudden return to incongruous or unwelcome images breaks at once the strain of pleasing sensations which has been excited. The camps and marches introduced into the tenth eclogue of Virgil are out of character. The satirical invectives which Spenser in some of his eclogues lavishes on the priesthood, under a quaint reference to the metaphorical appellation of pastors, grievously offend taste; and after the example of Spenser, Milton, in "Lycidas," has so little respected the feelings of his readers, as to disturb the illusive charm of that truly pastoral poem, by bringing them back to the most ignoble pursuits of real life:—

" How well could I have spared for thee, young swain,  
 Enow of such as for their bellies' sake  
 Creep and intrude and climb into the fold?  
 Of other care they little reck'ning make,  
 Than how to scramble at the shearers' feast,  
 And shove away the worthy bidden guest.  
 Blind mouths! that scarce themselves know how to hold  
 A sheep-hook, or have learn'd aught else the least  
 That to the faithful herdsman's art belongs!  
 What recks it then," &c.

It is the disregard of this unity of pastoral effect that forms the chief blemish of Florian's *Estelle*. Though the first appearance of Gaston de Foix is very striking, and there is much talent and animation in the warlike scenes, yet we believe that every reader, on arriving at the military part of that exquisite romance, feels the jarring of a discordant string.

While this species of writing remains true to its real character, it may surely be allowed the common privilege of resorting, for effect, to the deceptions of fancy. In one word, we are unable to discover why, in the first place, the illusions of poetry in general are less innocent than those of which we have given examples, as existing in the real world, without the intervention of poetic agency; or why, in the second place, the illusions of pastoral composition are less innocent than those of heroic.

The visions of pastoral, like those of other poetry, can be said to convey false or incorrect impressions, only when they are regarded as exact likenesses of existing life and manners. So long as they are universally recognised to be visionary, they may be forgiven. If it be contended, that, in spite of the conviction of their falsehood, they yet insensibly affect the mind, and tend to unhinge us for the performance of our more homely and unromantic duties, by throwing an air of flatness over the incidents of common life:—this, indeed, is a serious charge, and demands some attention. It is analogous to the popular objection urged against all works of fiction, and especially against the higher kind of romance.

The mischievous influence, however, imputed to such writings, though it cannot entirely be denied to exist, is yet greatly over-rated. In this, as in many other cases, nature, even without the aid of a philosophical education, successfully struggles to accommodate herself to circumstances. The mind is soon taught, that swelling ideas and emotions of high-wrought delicacy are unequal to the wear and tear of this *work-day* sphere. To reconcile the indulgence of its nobler sensations with the performance of practical duty, it insensibly learns to establish a distinction between the world of imagination and the world of sense; assigning



to each its peculiar furniture of feelings and associations. To the one or the other of these departments, whatever may be presented to it of virtue or of wisdom, is, without a conscious effort, referred.

We do not say that this division is, in every instance, systematically made; but in every instance a tendency towards it may be discovered. It is obvious to perceive on what different grounds the same, or nearly the same, actions are judged, when they occur in ordinary life, and when they are found enshrined in the works of imagination. There are many virtues which are admired only in the records of fiction, and some which are admired only because they are fictitious.

The danger, to which we have adverted, seems then to be sufficiently removed by nature itself; but it must be confessed, that the removal of it opens to us the view of another, into which a genius, ardent but undisciplined, is not unlikely to fall. It is, that the line of distinction of which we have spoken, though drawn, will not be drawn in the right place. The masters of romance contrive to identify the good with the beautiful; and what they have thus identified, a mind trained in their school cannot easily be brought to separate. The captivating associations with which it has been taught to surround virtue, it acquires the habit of regarding not as her ornaments, but as her attributes; — not as the fires which are kindled about her shrine, but as glimpses and emanations of her own essential beauty. Whatever of adventitious grace or delicacy may be effused around her appears not so much to be lighted up by her splendour as to be melted into the mass of her substantial excellence, — as the clouds that gather round the setting sun seem to form a part of the brightness by which they are illuminated. When such a mind enters on the scenes of the world, it is insensibly led, as we have already remarked, to distinguish its ideas and feelings into two classes — the practical and the romantic; referring to the latter those that may be too finely touched for the former. The glowing associations with which hitherto it has invariably united virtue it accordingly assigns to the department of romance; and the danger is, lest, from the difficulty of making a distinction to which it has been unaccustomed, it may proceed to pass the same sentence on virtue itself. The higher kind of virtue, at least, it now believes to be visionary, — enchanting as an object of contemplation, but useless as a guide of conduct. The consequence of this delusion is, that, although from various motives, some consideration may yet be paid to those sober and pedestrian qualities, on which the contexture of society, in the coarsest view of the subject, depends; yet every thing that oversteps this naked routine of duty, — the greatness that is above vulgar heroism — the goodness that aspires to saintly perfection; — these are dismissed to the shady spaces of an ideal world. It is, indeed, probable that a strong mind will at length redeem itself from the error into which it may have been thus betrayed; yet the effects of so deep a wound may long survive its cure.

But the question recurs, — How are these dangers to be obviated? Are works of fiction, including, in that description, poetry, ancient and modern, to be banished? If this principle be adopted, we must proceed a step farther, and banish also all the prose writers of antiquity. The pompous and enchanting eloquence of the ancient philosophers, orators, and historians, has done more than the *faërie* of all the novel writers, from the creation till the present moment, to array virtue with that romantic brightness which exercises so powerful a sorcery over the youthful imagination. We might truly characterise those authors as “*doctissimos homines, quibus, etiam cum facere non possent, loqui tamen et scribere honestè et magnificè licebat.*” Nothing has been produced, in modern ages, at all comparable, in this point of view, to the common places of Plato, Xenophon, and Plutarch, among the Greeks; and among the Romans, of Cicero and Livy. We speak not here of the substance of their ethic, which was very imperfect, but merely of the atmosphere of fine writing with which it was invested.

But admitting (and it is surely an extravagant admission) that we have completely succeeded in the attempt to seclude the mind from these inflammatory compositions, what is the consequence? The power of fancy is neither destroyed nor reduced to inaction. If it be repressed in one direction, it will break out in



another ; and will avenge itself on the bigotry that would have extirpated its energies, by devoting them to corruption and sensuality. This then is all that we have gained. We have extinguished the lights of heaven ; but the darkness which we have left is not solitude. The slumbers from which we have chased the better genii will be haunted by the spectres of vice and folly.

It is not then by a vain effort to quench the imagination that the dangers of which we have been speaking are to be encountered. The only method by which a wise man would endeavour to meet them is that of a skilful education, of which it is the object to train up all the intellectual powers in equal proportions and a mutual correspondence ; to instil into the mind just and rational expectations of human life ; and, above all, to encompass virtue with associations, if we may use the expression, more than mortal, — associations, whose steady lustre may survive the waving and meteorous gleams of sentimental illusion.

The preceding observations relate generally to the principle of confining poetry to the realities of life ; but they are peculiarly relevant, when that principle is applied to the realities of *low life*, because these are, of all others, the most disgusting. If therefore the poet choose to illustrate the department of low life, it is peculiarly incumbent on him to select such of its features as may at least be inoffensive. Should it be replied, that there is no room for such selection ; then it follows, that he must altogether refrain from treating the subject, as utterly unworthy of his art. The truth however is, that there *is* room for selection. No department of life, however darkened by vice or sorrow, is without some brighter points on which the imagination may rest with complacency ; and this is especially true where rural scenes make part of the picture. We are not so absurd as to deny, that the country furnishes abundant examples of misery and depravity ; but we deny that it furnishes none of a different kind. In common life every man instinctively acquires the habit of diverting his attention from unpleasant objects, and fixing it on those that are more agreeable ; and all we ask is, that this practical rule should be adopted in poetry. The face of nature under its daily and periodical varieties, the honest gaiety of rustic mirth, the flow of health and spirits which is inspired by the country, the delights which it brings to every sense, — such are the pleasing topics which strike the most superficial observer. But a closer inspection will open to us more sacred gratifications. Wherever the relations of civilised society exist, particularly where a high standard of morals, however imperfectly acted upon, is yet publicly recognised, a groundwork is laid for the exercise of all the charities, social and domestic. In the midst of profligacy and corruption some trace of those charities still lingers ; there is some spot which shelters domestic happiness ; some undiscovered cleft, in which the seeds of the best affections have been cherished and are bearing fruit in silence. Poverty, however blighting in general, has graces which are peculiarly its own. The highest order of virtues can be developed only in a state of habitual suffering.

These are the realities which it is the duty of the poet to select for exhibition ; and these, as they have nothing of illusion in themselves, it is not necessary to recommend by the magic of a richly-painted diction. Even presented to us in language the most precise and unadorned, they cannot fail to please ; and please perhaps then most surely, when told in words of an almost abstract simplicity ; words so limpid and colourless, that they seem only to discover to us the ideas, not to convey them, still less to lend them any additional sweetness or strength. Every reader will recollect some passages in our best authors which answer to this character. Yet we cannot resist the temptation of exemplifying our position by an instance from Mr. Crabbe himself. What can be more *unfanciful*, and yet what more affecting, or more sublime, than his representation of a young woman watching over the gradual decay of her lover ?

“ Still long she nursed him ; tender thoughts meantime  
Were interchanged, and hopes and views sublime.  
To her he came to die, and every day  
She took some portion of the dread away ;  
With him she pray’d, to him his Bible read,  
Soothed the faint heart, and held the aching head :

She came with smiles the hour of pain to cheer ;  
 Apart she sigh'd, alone she shed the tear."

The following verses of Statius, though they do not reach the elevation of the preceding passage, yet excel in the same picturesque simplicity ; and afford an agreeable glimpse of the happiness which sometimes gladdens the interior of a cottage : —

————— " Velut Appula conjux  
 Agricolæ parci, vel sole infecta Sabina,  
 Quæ videt emeriti, jam prospectantibus astris  
 Tempus adesse viri, *properè mensasque torosque*  
*Instruit, expectatque sonum redeuntis aratri.*" — SILV. lib. 5.

Still more unambitious is the language in which Virgil describes the opening of day over the humble roof of Evander : —

" Evandrum ex humili tecto lux suscitât alma,  
 Et matutini volucrum sub culmine cantus."

Yet, in these plain words, there is a charm, which the two greatest masters of verse since the Augustan age, have vainly, as it strikes us, endeavoured to transfuse into more figurative and brilliant numbers. Tasso says of Erminia,

" Non si destò fin che garrir gli augelli  
 Non sentì lieti, e salutar gli albori,  
 E mormorare il fiume, e gli arboscelli,  
 E con l'onda scherzar l' aura, e co' fiori."

And Milton of the sleep of Adam,

————— " Which the only sound  
 Of leaves and fuming rills, Aurora's fan,  
 Lightly dispersed, and the shrill matin song  
 Of birds on every bough."

It is observable that Milton here is more *Italian* than Tasso.

It must then be acknowledged that even the meanest station is not perfectly barren of interesting subjects ; but the writer, who covets the praise of being a faithful transcriber rather than a generous interpreter of nature, may be allowed to descend a step lower in the scale of exact delineation. There is a class of " real pictures " which is connected with no peculiar associations ; and which may therefore, as far as the imagination is concerned, be called neutral. Of this nature are minute descriptions of agricultural pursuits, of ingenious mechanism, of the construction of buildings, of the implements of husbandry. Such descriptions are, in a long work, necessary, for the sake of variety ; and are, at all times, if happily executed, grateful to the understanding as specimens of intellectual skill and dexterity. But it is indispensable that they should be strictly neutral. On this head much misconception has arisen from a confused apprehension of the analogy between poetry and painting. Because in painting, low and even offensive subjects are admitted, it is taken for granted that poetry also ought to have its Dutch school.

Without entering at length into this discussion, it may not be improperly suggested that, even in painting, there is a limit beyond which no prudent artist would venture to try the indulgence of the spectator. A variety of performances might be specified, in which the highest powers are in vain tasked to their utmost, to atone for the vulgarity and grossness of the subjects.

It may be suggested farther, that the Dutch school is indebted for its celebrity, not in any part to the nature of its subjects, but exclusively to its happiness of execution. It professes to address only the eye ; and its failings are lost and overlooked in the perfection of its mechanical excellence, in its grouping and management of light and shade, in the harmony and radiance of its tones, and the luxuriance of its manner. The success of its productions is signally the triumph of colouring and composition : the subject, in a word, is the least part of these paintings. Poetry, on the other hand, is destitute of means to fascinate the external senses, and appeals to the mind alone. It is, indeed, popularly said, that words are the colours of poetry : but if this metaphor were just, it would, in



the present case, be inapplicable. The new system which Mr. Crabbe patronises, and to which, therefore, our remarks primarily refer, disclaims the attempt to disguise its *studies from Nature* under glowing and ornamental language.

We have hitherto considered the great principle on which our author proceeds. But this principle is not, with him, merely theoretical. Its impression visibly affects the character and impairs the merit of his writings.

The minute accuracy of relation which it inculcates, however favourable to the display of his uncommon powers of research, has a tendency to throw an air of littleness and technical precision over his performances. His description is frittered down, till instead of a spirited sketch it becomes a tame detail. We will not say that he is incapable of large and comprehensive views; but he is surely somewhat slow to indulge in them. Thus his knowledge of man is never exhibited on a grand scale. It is clear and exact, but statistical rather than geographic; a knowledge of the individual rather than of the species. In his pictures there is little keeping; his figures, though singly admirable, are carelessly and clumsily grouped; and the whole drawing, while it abounds in free and masterly strokes, is yet deficient in depth and roundness.

The characteristic of Mr. Crabbe's writings is force; and this is the quality of which he most affects the praise. The finer parts of genius he neglects as useless or despises as weak. What he sees strongly, he makes a point of conscience to describe fearlessly. Occasionally, perhaps, this ambition of vigour drives him into unintentional vulgarity. Yet it cannot be disguised that he more commonly sins without this excuse: he admits coarseness on system. It is the original principle still operating. His sagacity in the discovery, and his ardour in the pursuit, of offensive images are sometimes astonishing. His imagination never shrinks from the irksome task of threading the detail of vice and wretchedness.

The habit of anatomically tracing and recording the deformities of his fellow creatures has communicated to some of his descriptions an appearance of harshness and invective, which we are persuaded has no counterpart in his feelings. He is evidently a man of great benevolence, but is apt to indulge in a caustic raillery which may be mistaken for ill-nature. In his pity there seems to be more of contempt than of tenderness, and the objects of his compassion are, at the same time, the objects of his satire. In the same manner, he is jealous of giving his reader unmixed gratification; and, even when his subject is inevitably pleasing, too often contrives, by the dexterous intervention of some less agreeable image, to dash the pleasure which he may have unwillingly inspired.

To the effect of his favourite doctrines also, we are disposed to ascribe it, that his perception of the beauties of nature has so little of inspiration about it. Living on the verge of fields, and groves, and streams, and breathing the very air which fans them, he is never tempted to forget himself in the contemplation of such scenes. A prospect of the country never thrills him as with the sudden consciousness of a new sense. We do not recollect that, in any part of his writings, he mentions the singing of birds, except

——— “ The tuneless cry  
Of fishing gull, or clanging golden eye.”

We cannot conceive him to pour forth strains of such elastic gaiety as those which salute the month of “ March ” in Graham's *Georgics* : —

“ Raised by the coming plough, the merry lark  
Upsprings, and soaring, joins the high-poised choirs  
That carol far and near, in spiral flight  
Some rising, some descending, some beyond  
The visual ken, making the vaulted sky  
One vast orchestra, full of joyful songs,  
Of melodies, to which the heart of man,  
Buoyant with praise, in unison responds.”

Nor can we conceive him to feel the exultation of Thomson when he exclaims, —

“ I care not, Fortune, what you me deny :  
 You cannot rob me of free Nature's grace ;  
 You cannot shut the windows of the sky,  
 Through which Aurora shows her bright'ning face ;  
 You cannot bar my constant feet to trace  
 The woods and lawns, by living stream, at eve.”

Nor yet the more solemn and chastised swellings of the heart that breathe in these lines of Cowper : —

“ Nor rural sights alone, but rural sounds  
 Exhilarate the spirit, and restore  
 The tone of languid nature. Mighty winds,  
 That sweep the skirt of some far-spreading wood  
 Of ancient growth, make music not unlike  
 The dash of ocean on his winding shore,  
 And lull the spirit while they fill the mind ;  
 Unnumber'd branches waving on the blast,  
 And all their leaves fast flutt'ring, all at once.  
 Nor less composure waits upon the roar  
 Of distant floods, or on the softer voice  
 Of neighb'ring fountain, or of rills that slip  
 Through the cleft rock, and chiming as they fall  
 Upon loose pebbles, lose themselves at length  
 In matted grass, that with a livelier green  
 Betrays the secret of their silent course.”

It is consistent with this habit of mind that our author should evince little relish for the sentimental. From that whole class of intellectual pleasures he is not less averse in principle than in practice. He lives, if we may be allowed the expression, without an atmosphere. Every object is seen in its true situation and dimensions ; — there is neither colour nor refraction. No poet was ever less of a visionary.

We are inclined to think that Mr. Crabbe's taste is not equal to his other powers ; and this deficiency we attribute, partly indeed to the original constitution of his genius, but much more to the operation of local circumstances. A life of retirement is, perhaps, in no case very favourable to the cultivation of taste. Unless the mind be sustained in its just position by the intercourse and encounter of living opinions, it is apt to be carried away by the current of some particular system, and contracts in science, as well as in morals, a spirit of favouritism and bigotry. The love of simplicity especially, which is natural to an intellect of strong and masculine proportions, is peculiarly liable to degenerate into a toleration of coarseness. Mr. Crabbe, however, seems to have been exposed to an influence doubly ungenial — that of solitude, in his hours of study ; and in his hours of relaxation, that of the society with which his professional duties probably obliged him to become familiar. Even on a judgment the most happily tempered and vigilantly guarded, an intimate acquaintance with such a society must have operated fatally ; either by deadening its tact altogether, or by polishing it to an unnatural keenness ; and its influence will be still greater on a mind naturally little fastidious, and predisposed perhaps to prefer strength to elegance.

The impression which results from a general view of our author's compositions is such as we have stated. There are detached passages, however, in which he appears under a more engaging character. When he escapes from his favourite topics of vulgarity and misery,

“ *Cœtusque vulgares et udam  
 Spernit humum,*”

he throws off his defects, and purifies himself as he ascends into a purer region. Some of the most pleasing are also among the happiest of his efforts. The few sketches which he has condescended to give of rural life, are distinguished not more for their truth than for their sobriety and chasteness of manner. His love of circumstantial information is likely, in ordinary cases, to confound rather than inform, by inducing him to present us with a collection of unconnected and



equally prominent facts, of which no arrangement is made, because there is no reason why one should have the precedence of another. But when the feelings are to be questioned, and the heart is to be laid bare, the same principle leads him closely to follow up nature; and thus we are conducted, step by step, to the highest point of interest. In the struggle of the passions, we delight to trace the workings of the soul; we love to mark the swell of every vein, and the throb of every pulse; every stroke that searches a new source of pity and terror we pursue with a busy and inquisitive sympathy. It is from this cause that Mr. Crabbe's delineations of the passions are so just — so touching of the gentle, and of the awful so tremendous. Remorse and madness have been rarely portrayed by a more powerful hand. For feeling, imagery, and agitation of thoughts, the lines in which Sir Eustace Grey\* tells the story of his insanity are second to few modern productions. The contrast between the state of the madman, and the evening scene on which he was condemned to gaze, gives a tone of penetrating anguish to the following verses: —

- “ Upon that boundless plain below  
 The setting sun's last rays were shed;  
 And gave a mild and sober glow,  
 Where all were still, asleep, or dead.  
 “ There was I fix'd, I know not how,  
 Condemn'd for untold years to stay;  
 Yet years were not — one dreadful Now  
 Endured no change of night or day.  
 “ The same mild evening's sleeping ray  
 Shone softly solemn and serene;  
 And all that time I gazed away,  
 The setting sun's sad rays were seen.”

It may be remarked that the emphatical expression, “ One dreadful *Now*,” is to be found in Cowley's *Davideis*.

There is great force in these two lines, —

- “ I've dreaded all the guilty dread,  
 And done what they would fear to do.”

But that which gives the last finish to this vision of despair is contained in these words —

- “ And then, my dreams were such as nought  
 Could yield, but my unhappy case.”

Our author is no less successful when he wishes to excite a milder interest, when he describes the calm of a virtuous old age, the cheerfulness of pious resignation, the sympathies of innocent love. His paintings of this nature are done in his best style; and, though we perceive in them something of his usual dry and harsh manner, yet this peculiarity is now no longer a blemish, because it accords with the unpretending plainness of his subject.

It is, after all, on this portion of his works that he must build the fairest part of his reputation. The poetry which speaks to the understanding alone cannot permanently attract the mass of mankind; while that which moves the passions and the heart has already received the talisman of fame, and may securely commit itself to the affections of every coming age. It is very pleasing to perceive that, in his best passages, Mr. Crabbe is, practically at least, a convert to the good old principle of paying some regard to fancy and taste in poetry. In these passages he works expressly for the imagination; not perhaps awakening its loftiest exertions, yet studiously courting its assistance and conciliating its good-will. He now accommodates himself to the more delicate sympathies of our nature, and flatters our prejudices by attaching to his pictures agreeable and interesting associations. Thus it is that, for his best success, he is indebted to something more than ungarnished reality. He is the Paladin who, on the day of decisive combat, laid aside his mortal arms, and took only the magic lance. — *Quarterly Review*, vol. iv. pp. 281—295.

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\* Among Mr. Crabbe's former works.



## No. III.

## WRITINGS OF MISS EDGEWORTH.

See a Reference to the following just and discriminating Estimate of Miss Edgeworth's Genius and Talents in Vol. II. page 210. (Note.)

OF this work it is our duty to render some account to our readers ; but we trust we may be allowed, in the first place, to offer to them some general remarks upon an author already so well and so advantageously known to the world. We are the more inclined to do so, because Miss Edgeworth, with that vigour and originality which are among the principal characteristics of genius, has struck out a line of writing peculiar to herself,—a line which it required considerable boldness to adopt, and no common talents to execute, with effect. Not only has Miss Edgeworth interdicted to herself all those unfair and discreditable modes of obtaining popularity to which we have before alluded, but she has also voluntarily renounced many others that may be deemed fair, and comparatively harmless. We do not mean to speak merely of the entire absence of castles, drawbridges, spectres, banditti-caves, forests, moonlight and other scenes, which have furnished to Mrs. Radcliffe, and her school, many a gorgeous and terrific tale. Her most distinguished contemporaries have been content to forego these easy embellishments. But she has made some sacrifices which, if we are not much mistaken, are peculiarly her own. Her pictures are all drawn in the soberest colours. She scarcely makes use of a single tint that is warmer than real life. No writer recurs so rarely, for the purpose of creating an interest, to the stronger and more impetuous feelings of our nature. Even love, the most powerful passion that acts within the sphere of domestic life,—the presiding deity of the novel and the drama, is handled by her in a way very different from that in which we have been accustomed to see it treated in works of fiction. In them we find it represented sometimes as a guilty, sometimes as an innocent, but generally as an irresistible impulse,—as a feeling which springs up spontaneously in the human breast,—now as a weed—now as a flower—but whether as a weed or as a flower, not to be eradicated. The old rule was, for heroes and heroines to fall suddenly, irretrievably into love ;—if they fell in love with the right person, so much the better,—if not, it could not be helped, and the novel ended unhappily. And, above all, it was held quite irregular for the most reasonable people to make any use whatever of their reason on the most important occasion of their lives. Miss Edgeworth has presumed to treat this mighty power with far less reverence. She has analysed it, and found that it does not consist of one simple element, but that several common ingredients enter into its composition—habit,—esteem,—a belief of some corresponding sentiment, and of some suitableness in the character and circumstances of the party. She has pronounced that reason, timely and vigorously applied, is almost a specific ;—and following up this bold empirical line of practice, she has actually produced cases of the entire cure of persons who had laboured under its operation. Having mastered love, of course she treats the minor passions with very little ceremony ; and, indeed, she brings them out so curbed, watched, and circumscribed, that those who have been accustomed to see them range at large would hardly know them in their new trammels. Her favourite qualities are prudence, firmness, temper, and that active, vigilant good sense, which, without checking the course of our kindly affections, exercises its influence at every moment, and surveys deliberately the motives and consequences of every action. Utility is her object, reason and experience her means. She makes vastly less allowance than has been usually made for those “ amiable weaknesses,” “ sudden impulses,” “ uncontrollable emotions,” which cut so great a figure in the works of her predecessors. Her heroes and heroines are far more thinking, cautious, philosophising persons than even before were produced in that character. She is, in fact, if we may be allowed to coin a word, an *anti-sentimental* novelist. Her books, so far from lending any countenance to vice, even in



its most refined and agreeable form, afford some of the best lessons of practical morality with which we are acquainted. They teach, not merely by dry general maxims on the one hand, or by splendid examples on the other, but by reasons put into the mouths of the actors themselves, what is the right mode of conduct in circumstances of difficulty or temptation. She is constantly endeavouring to point out, by the discussion of cases judiciously selected, or ingeniously invented, what is the road by which virtue conducts us to happiness. There is hardly any good quality to which Miss Edgeworth has not contributed her powerful recommendation; but the ultimate rewards of steadiness, independence, and honest persevering exertion, are those she is fondest of setting before our eyes, and we think her choice is sanctioned by the value of the doctrines which she inculcates. She has, doubtless, observed that this mode of instruction is not adapted to those cases in which to deviate from virtue is palpably a crime. It is to the decalogue, and to the terrors of the law, that we are to look for the prevention of these graver and more striking offences. But men become fickle and indolent, and rely upon others to do that which they ought to do for themselves, before they have remarked the beginning of the evil, without foreseeing its consequences, and without being able to apply a remedy. It is to guard against these bad habits of mind — the causes of so much failure, disgrace, and misery, that Miss Edgeworth has principally directed her attention; and there is scarcely a page that does not contain some exhortation, direct or indirect, by precept or example, to control our passions and to exert our faculties. There are hardly any works of the kind that young persons can read with so much benefit. To their minds she constantly presents, in various shapes, and with a thousand illustrations, this great and salutary maxim — that nothing is to be learned, and very little to be gained, without labour, — severe and continued labour. But she does not forget, in order to reconcile them to this somewhat unpalatable doctrine, to show with equal care and truth that labour becomes vastly less irksome by habit, — that, judiciously directed, it seldom fails of its object, — that laziness, even to those whose rank and fortune screen them from its most dreadful consequences — poverty and contempt — is in itself wearisome and painful; — that the pauses and recreations of successful diligence comprise within them more cheerfulness and real gratification than are spread over the whole surface of a merely pleasurable life. With this view, her principal characters are represented as persons of good, but not of extraordinary faculties; they do nothing suddenly and “*per saltum*,” and their success and attainments are no more than what half the world may hope to equal by following the same means. She deals in examples, not in wonders; her’s are models of *imitable* excellence, and she rarely abuses the license of fiction to exhibit those miraculous combinations of virtue and talents, which, though they delight us for a moment with the image of perfection, serve to perplex and discourage, not to guide, the ordinary race of mortals.

Our readers, we presume, are aware (and if they are not, they will be very far from doing justice to Miss Edgeworth’s merits,) that, so far as effect is concerned, this uniform systematic preference of what is *useful* to what is *splendid* is a prodigious disadvantage. It is upon dazzling characters, in which virtue, bordering in its excess upon the contiguous fault, more resembles a generous instinct than a quality cultivated and strengthened by reason, that the writers of novels have justly relied for securing the public attention. Discretion and a logical head they thought by no means fit for the heroes and heroines of romance. And, undoubtedly, if effect were the only object, they did much better with rash courage, inconsiderate generosity, hasty confidence, and love ardent and irresistible at first sight; qualities infinitely more attractive to the bulk of mankind than those with which Miss Edgeworth has ventured to invest the principal persons of her drama. If, then, in spite of sacrifices to which hardly any one else has submitted, she has contrived to render her works highly entertaining and popular, she surely deserves double praise, not merely for having surmounted a difficulty, which, when that difficulty has been made only for the purpose of being surmounted, is a merit of a very inferior order, but because the purpose for which she voluntarily encountered it was highly useful and important.

To the accomplishment of this task she has brought very considerable talents



and acquirements; various reading; knowledge which, though she is too judicious to display it with ostentation, seems to be both extensive and accurate; a nice observation of manners and character, both in individuals and in society; a clear, easy, unencumbered style, and a keen sense of the ridiculous. Her two strong points are good sense and humour; and it is by the buoyant power of her humour that she has been able to diffuse among the public so large a portion of her good sense. Nothing can be more chaste and correct, and at the same time more ludicrous, than the representation of themselves, which her characters are made to give in their own conversation. That condition so indispensable to the true comic—their utter unconsciousness of the effect they are producing, is strictly observed. The hand of the author is never perceived, (as it almost constantly is in our modern comedies, to the entire disgust of all persons of tolerable taste,) but they are led, in the most natural manner imaginable, and without saying any thing that they might not be supposed to say, to cover themselves with ridicule. The absolute want of colouring and exaggeration only serves to improve the picture, and strengthens the impression almost up to that of the same circumstances in real life. We have always thought these dramatic parts of Miss Edgeworth's books, which indeed take up a considerable share of them, very much the best; and it is to this remarkable talent for humour that she is indebted for the popularity she enjoys, in spite, not only of the disadvantages to which (as we have already observed) she has spontaneously submitted, but also of some defects which we shall now, though unwillingly, proceed to notice.

In the first, and one of the most material branches of novel writing, that of framing a story, she is remarkably deficient. It must at the same time be owned, that this art, when carried to its highest pitch, is a great, and therefore uncommon specimen of genius and skill: indeed, if we were to mention that which, in a choice of excellences, we most admire in Fielding's great work, it would perhaps be that wonderful variety of incidents, arising without improbability, and introduced without confusion, and tending, through a story constantly rising in interest, to an unforeseen catastrophe. Any comparison with so happy an effort of so great a master would necessarily be unfair; but the truth is that, in this respect, Miss Edgeworth is inferior, not only to those that are generally her superiors, but to many among those that are vastly below her in every thing else. She has little fertility in contriving, and still less dexterity in combining, events. It is in characters that she shines: when she attempts to give interest to events, it is almost always at the expense of nature and probability. Her narrative is hammered out "*invitâ Minervâ*," and she never would have attempted it at all, except as a convenient vehicle for sketches of life and manners.

On her morality we have bestowed its due praise. It is of that sort which is most calculated to do real practical good; but the desire of instructing is too little disguised. The reader sees too plainly that he is under discipline. There is too much downright lecturing. The serious parts have a *prim* didactic air. The lesser rules of conduct are deduced truly enough, but with too much parade of accuracy and strictness, from general principles. We know how necessary the square and the rule are to the architect, but we do not like to see the chalk-marks upon the building. Morality ought not to smell of the lamp. It has been Miss Edgeworth's fancy to give all her virtuous characters a tincture of science, and to make them fond of chemistry and mechanics. We have no sort of objection to see them endowed with this useful knowledge, provided it does not prevent them from having rather more warmth, and rather more grace. To say the truth, we are inclined to think that, in avoiding the common error of novel writers, who make morality depend too much upon feeling, and too little upon the understanding, she has not completely escaped the opposite fault, but has ascribed too large a share of it to the head, and too little to the heart. — *Quarterly Review*, vol. ix. pp. 303—308.



## No. IV.

## GENIUS AND ELOQUENCE OF MR. PITT.

For a Notice of the masterly Article in the Quarterly Review from which the following Extracts are taken, the Reader is referred to Vol. II. page 48.

THE mental constitution of Mr. Pitt appears to us to have been one of the most nearly perfect ever bestowed on a human being. His powers of intellect are generally allowed to have been of the highest order; and he was equally rich in those more practical qualifications which alone can render intellect of avail in the actual conduct of affairs.

It is interesting to observe the characteristic varieties of manner which mere differences of temper, habits, and disposition impress on human genius. On the theatre of public life, it is by modes infinitely diversified that great men of nearly equal talents achieve a nearly equal degree of greatness. Some, ordinarily indolent or negligent, yet break out in starts and sallies of fortunate boldness, and may thus be said to absolve their race of glory by a series of gigantic but irregular bounds. Others, uniformly ardent and impetuous, are apt by their vehemence to over-reach their own purposes, but finally succeed in bearing down all opposition. A third class, coldly cautious and silently persevering, appear to weary out the jealousy of fortune by their unremitting vigilance and unconquerable patience. A fourth set are distinguished by an infinite delicacy both of perception and of management;—by a sensibility which is aware of the most latent dangers, and a nicety of hand that can unravel the most perplexing difficulties. There are persons, yet distinct from all these, who make their way by a certain homely good sense and plodding vigour, which is little alive to wire-drawn scruples, and cuts without ceremony the knots that it cannot untie. To enumerate the subdivisions into which these several descriptions of characters respectively branch forth, or the compounds formed by their partial intermixture, would be endless. The character of Mr. Pitt, however, if we have not greatly mistaken it, collected in itself the better portion of them all. It would be difficult, we believe, to discover in all the records of history the name of any other individual, who to so much alacrity and active courage has joined more constancy and equability; who has exhibited the same strenuousness and keenness of spirit, with so little of bustling and boisterousness on the one hand, or of precipitancy on the other; who has possessed the same soundness of mind and practical sense, untinctured by the smallest infusion of coarseness or vulgarity; and whose refinement, at the same time, has been equally free from all nervousness, hesitation, and irritability.

In the assemblage of qualities which we have attributed to Mr. Pitt, it will be observed that the component features are of very various cast and character; yet it is curious to remark that, when such a combination is once formed, the resulting expression of the whole will naturally be one rather of grandeur and loftiness than of sweetness and amenity. It is thus that the mixture of the prismatic colours, instead of constituting, as might have been expected, a medium between the brilliancy of some of them and the softness of others, issues in one dazzling effulgence of white. However we may account for this physical wonder, the mental phenomenon is by no means hard of explanation. A mind comprising an union of all the highest faculties, mutually adjusted with the most correct symmetry, too little resembles minds in general to be secure of exciting general sympathy; and, if not our firmest or deepest, yet our fondest attachments will rather incline to objects whose greatness either is qualified by some manifest imperfection, or at least occasionally deviates into excess. It is only a disproportion of the ingredient hues that can produce the prevalence of that *soft green* on which the soul has been justly and beautifully described as loving to repose. Yet let us not therefore be imagined to maintain that the majestic description of mind which we have attempted to picture is ill calculated to attract popularity. Of such a position, the actual history of Mr. Pitt would singly furnish a sufficient disproof. So far, indeed, from holding this opinion, we are persuaded that the



character in question is the natural centre of that species of popularity, at which alone a leader of the public counsels should aim, because on no other can he rely, — the popularity into which the elements of veneration and confidence are deeply infused. Whatever of fraternal regard mankind may withhold from such a character, they will more than repay to it in filial respect. It would be perfectly erroneous to suppose that the reverence which we yield to an individual thus gifted is the mere homage of the judgment, and dictated rather by our reason than by our nature. The reverse is the fact. Much has often been said of the *besoin d'aimer*, as of a feeling natural to man; but the truth is, that to man, in a poetical capacity at least, the *besoin d'obéir* is a feeling in every respect equally natural. The human mind is rarely of so firm a contexture as, on matters of moment, to think independently; men lean on each other, and the community collectively on a few vigorous and self-supported spirits. These may be said to form the *piles* of the social fabric, and the rest consists by grappling and contignation. Nor must this remark be explained as referring to the case of a despotic government; for, on the contrary, the peculiar feeling of subjection here described is, under a despotism, anticipated and overborne, and can have scope to operate only where restrictions of a merely physical kind are very sparingly imposed. It is to this sentiment, then, that the political leader must look, as to the true *seminary* of popular attachment. He who fills this void in the hearts of a people, possesses precisely that hold on their favour which is best adapted to the reciprocal relations subsisting between a statesman and his country.

It will be remembered, that the question here agitated has exclusively respected the *public* character of Mr. Pitt. The private friends and associates of men possess means of estimating the degree of their amiableness, from which the world is unavoidably precluded; and it is, therefore, perfectly conceivable that a mind which appears awful in its state-robes, shall, in its undress, be of all others the most engaging and delightful. In fact, it is now perfectly well known that this was actually the case with the statesman of whom we are speaking. Mr. Gifford has justly remarked, that “no man was ever more beloved by his friends, or inspired those who had the happiness of living in his society with a more sincere and affectionate attachment.” On this pleasing quality of Mr. Pitt’s character it would much gratify us to dwell; but our space is circumscribed, and we have now barely left ourselves room to subjoin our promised observations on his style and powers as an orator.

The eloquence of Mr. Pitt, with great beauties, had, like all the other eloquence of these latter days, great faults. It had not, however, the fault, which is sometimes imputed to it, of a deficiency in large and philosophical speculation. In this sort of excursion, though it dealt sparingly, it could with no propriety be called *deficient*, for it dealt enough. Mr. Pitt’s speeches exhibited fewer ostensible references to general principles than, perhaps, might satisfy a hearer who was very metaphysically disposed; but, as the objections which they have drawn on themselves from such persons have not been sanctioned by the feelings, in general, of the audience to whom they were addressed, so we feel pretty well persuaded that they will not be echoed by posterity.

The objectors appear to forget that oratorical, like poetic composition, is, in its very nature, not philosophical, but popular. The object of both is to *affect strongly*; and no critical precept can be more universally familiar, or more deeply founded on human nature, than this, that the mind is strongly affected only by *near* and *individual* representations. The abstract theorems and generic conclusions of the metaphysician are destructive of that warm interest, that feeling of intimate concern, that *sense*, as it were, of home, which it should be the business of the orator to excite. They call forth no passion: they produce nothing that can be called even an *affection* of the mind, unless it be something like that tranquil and indolent pensiveness, with which the deities of ancient poetry

—— “From heaven survey the fatal strife,  
And mourn the miseries of mortal life.” \*

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\* Dryden’s *Æneid*.



They present us with a bird's-eye picture, in which distance, while it adds a certain faint and tender tint, mellowing down and blending together the whole expanse of prospect, almost entirely extinguishes that rich and varied vivacity of colours by which the ocular spectrum is alternately stimulated and refreshed.

In what precise degree philosophical discussion may enter into a popular oration there can be no occasion to consider, so long as we recollect that, being in its very nature extraneous, it can hardly appear too little. Nor is it, therefore, intended to question the doctrine that an orator must build his reasonings on a solid basis of general principles. He must undoubtedly so build, if he would not have his edifice overthrown by the first blast; but it is not the less important that this basis should be concealed from sight. The structure of his composition must be reared on the most massy foundations, while, in semblance, it is self-poised and pensile. His oratory must, throughout, be governed by an enlarged philosophy, but a philosophy which, though hidden from sense, is yet (we make the allusion with reference) distinctly visible in its effects.

Such is the general rule. But all oratory is a compromise between theoretical perfection and prevailing prejudices; and he who addresses an assembly of metaphysicians must condescend to be, in some measure, metaphysical. Even thus tried, however, Mr. Pitt will not be found wanting. Although those who constitute our parliamentary auditories set too little value on *impassioned* eloquence, yet that they are, generally speaking, inclined to *philosophising* eloquence does not follow, and must seem very dubious. But whatever their inclination, that Mr. Pitt contrived, if not to satisfy, at least to quiet it, may be inferred from the fact of his popularity as a speaker, which unquestionably equalled, and, indeed, as far as our observation extended, surpassed, that of any of his contemporaries. On the other hand, if the matter be brought to the test of authority, this orator will be equally borne out. Of philosophy, technically so called, there is scarcely more in Cicero and Demosthenes than in Homer; and certainly, on this score, they would be found at least as lamentably deficient as Mr. Pitt.

“ Ut redeant veteres, Ciceroni nemo ducentos  
Nunc deterit nummos !” —

Were those masters of eloquence to re-appear on earth, it cannot be doubted that some of our little philosophists, who cant about *things in general*, only because they are profoundly ignorant of things in particular, would find it necessary to read them lectures on the science of generalisation, and would exhort them to substitute the paltry retorts and digesters of a metaphysical laboratory for those *inimitable* bolts which ‘fulminated over’ the civilised world, and shook even the centre of barbarism.

What then, it may be enquired, were, in our opinion, the real faults of Mr. Pitt as a speaker? The faults of Mr. Pitt as a speaker we certainly should pronounce to be those which have been described in the former part of this article, as characteristic of the British orators of his age, though, at the same time, as chargeable rather on the age than on the orators. But we have too great a respect for our readers to re-conduct them over a ground which we have already attempted so fully to explore. It may, perhaps, farther be remarked, that Mr. Pitt occasionally offended by monotony; and although, for the general diffuseness of his style, a very satisfactory and even triumphant plea is offered in the passage which we last extracted from Mr. Gifford, yet we are inclined to think that, in his statements at least, he sometimes exceeded the necessary measure of amplification. These, however, were trivial blemishes, and do not demand from criticism more than a bare notice. We shall therefore close, in this place, our censures of this eminent master of eloquence, and direct our attention to the qualifications which entitled him to that appellation.

The *seat of the soul* in the human frame has been an object of anxious but fruitless search to philosophers; and, with little less labour and scarcely greater success, have physiognomists endeavoured to detect the *seat of expression* in the human face. In the mean time, however, we all recognise the existence of a rational nature in its external agency, though with the secret of its residence we are unacquainted; and a fascinating countenance finds us all more or less vulnerable, though its shafts are shot, as it were, from an ambush. Oratory, in like manner,

or at least the most exalted kind of oratory, appears to act by virtue of some hidden principle, which eludes analysis and becomes tangible only in its effects. It would seem as if the element of eloquence, like the æther of the ancients, owed its penetrating quality to its being impalpable. The oratorical merits of Mr. Pitt, as of other speakers of the first rate, we have frequently witnessed attempts to particularise, but always with a sensation that there was something, however undefinable, left untold, — that, at the best, we had an inventory rather than a description. His admirers expatiate, and with justice, on the perfectness of his arrangement, the comprehensiveness of his reasonings, the power of his sarcasm, the magnificence of his declamation, the fluency and correctness of his language, the majestic tone of his voice, the legislative authority of his manner, and his felicitous observance of the temper of his audience. These qualifications Mr. Pitt possessed; and these qualifications could hardly have subsisted together without constituting a great orator; but, at the same time, they might, as we believe, have subsisted together without exactly constituting Mr. Pitt. The effect of such an enumeration is, as if the statue of the Belvidere Apollo should be extolled for its admirable proportions, jointly expressing strength and swiftness — for the anatomical truth of its attitude — for its beauty of feature — for its fineness of workmanship. The catalogue of excellences would, so far as it extended, be faithful; but yet would not convey even a tolerably distinct impression of that air of celestial grace and dignity, which electrifies every spectator of the wonderful production in question, but of which, probably, the constituent characters can no more be described than they can be misunderstood.

But grace and dignity, though they cannot be dissected, may be felt. The more ethereal emanations of exalted talents, the *invisible rays*, if we may so apply the term, of genius, though they do not, in themselves, admit either of perception or of description, may yet be described, as they are perceived, in the effects which they operate. It is on this principle only that we shall attempt to point out what, as it strikes us, was the distinguishing excellence of Mr. Pitt's oratory; and let us not be accused of the spirit of hypothesis, if we shall assert this to have exactly corresponded with what we have already mentioned as the distinguishing excellence of his whole mental system. Every part of his speaking, in sentiment, in language, and in delivery, evidently bore, in our judgment, the stamp of his character. All communicated to us a definite and vivid apprehension of the qualities of strenuousness without bustle, unlaboured intrepidity, and serene greatness. To trace analytically the features, from the combination of which this general expression resulted, we have already declared to be a task beyond our ability. When, however, it is remembered how visibly the minds even of ordinary men are embodied in their outward demeanour, it may readily be conceived that the grandeur of a superior spirit, and especially when it is in the very act of exerting its influence on human subjects, should exuberate into every tone, glance, and gesture. The deportment and bearing of Mr. Pitt in debate might not unaptly be compared to those of his countryman, Marlborough, in the field. His courage, always unconquerable, was never busy, impatient, or passionate, and seemed totally independent of the ebullitions

“Of mounting spirits or fermenting blood.”

The distraction or dangers of the most tumultuous scene could not disturb his self-possession, or shake the steadfastness of his foresight. His firmness and command of hand were such, that he could ever volley or check his fury at the given instant; ever *graze the goal*, without effort and without danger.

It is particularly worthy of remark, that, to those who know Mr. Pitt only through the medium of his reported speeches, a great portion of him must necessarily be lost. The voice, the countenance, the manner, (to say nothing of the thousand proprieties that depend on an intelligence of the feelings of those addressed,) are wanting: and we may add, that no distinguished speaker of the day seems more to have suffered from the inaccuracy of reporters. Still, unless we much deceive ourselves, even in his reported oratory, not a few traces of its original elevation are preserved.

As this moral sublimity formed the great charm of Mr. Pitt's eloquence; so



the distinguishing virtue of that of Mr. Fox consisted in the inimitable appearance, which it always wore, of perfect genuineness and sincerity. If the quality that gave character to the oratorical displays of the former was *greatness of soul*, that which informed and animated the speaking of his rival was *depth of heart*. If this account be correct, the eloquence of each of these extraordinary men principally owed its ascendancy to a property of a *moral* nature; understanding by that epithet, according to its more enlarged meaning, something that pretends to *mind*, as distinct from mere intellect. Probably the observation might be extended to all eloquence of the highest order. Oratory is one of the means by which man exercises an empire over the minds of his own species; and the only firm basis of mental dominion is mental superiority. These considerations seem to suggest an interesting view of the oratorical art, although a view of it which writers on rhetoric, if they have taken it at all, have at least never taken distinctly. The fact is, that the subject falls within the province of the philosopher, rather than of the rhetorician; for it is conversant with that class of the human faculties which must be born with us, — which education, and above all, a merely rhetorical education, is incompetent to bestow. Nothing can be more inaccurate than to represent the human mind as resembling some of those curious manufactures, of which the raw material is, in itself, worthless, and derives its whole value from the workmanship bestowed on it. There are certain innate powers and endowments, which, if they must be compared to matter at all, can be compared only to the most rare and delicate among those original configurations of it; the manufacture of which, if the expression may be allowed, is conducted in the secret and inaccessible recesses of nature. — *Quarterly Review*, vol. iv. p. 263—270.

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No. V.

ACCOUNT OF THE LATE DR. BROWN'S CONNECTION WITH  
THE EDINBURGH REVIEW.

Reference is made to the following Narrative in Vol. III. page 18. (Note.)

WHEN the Edinburgh Review commenced, the ideas of authorship being somewhat different from what they are at present, the papers were contributed without any pecuniary compensation. Some articles were written by Dr. Brown, and bear the marks of his genius. He was the author of the leading article of the second number — a Review of the Philosophy of Kant; and I believe every one who has attended to the subject will allow that he has made it as intelligible as the nature of it admits. In reference to this subject I may here insert two extracts from the letters of Dr. Currie: — “ I have heard that you are engaged in the Edinburgh Review, which makes a great impression here, and which certainly displays uncommon vigour and information. It struck me that the article on Kant must be from you. I received from it great pleasure and instruction. I could wish there was a little less severity in the Review; but I have scarcely now a right to speak, lest it should be imputed to personal feeling, — having observed that there is a little touch at myself, or rather, perhaps, poor Burns, in the last number.” In another letter he thus writes: — “ I assure you that the compliment I paid you on the review of Kant was perfectly sincere. I had been endeavouring to penetrate into his system with no great success. The demonstration you have given of the points in which it agrees and disagrees with Berkeley, has, I think, thrown light upon the whole. I shall trouble myself no more with transcendentalism: I consider it as a philosophical hallucination. We must rest after all, I believe, for the present, in the system of Dr. Reid; such, at least, is the inclination of my mind. Mr. Stewart's view of the life and writings of this sage has given me extraordinary pleasure.”

His connection with the Review, however, was but of brief continuance. Some liberties that were taken with one of his papers, by the gentleman who had the

superintendence of the publication of the third number, led to a misunderstanding, which terminated in his withdrawing his assistance from the work.

Many of Dr. Brown's friends regretted that any circumstance should have occurred to put an end to his connection with the Review. To his immediate fame it certainly was in some degree injurious, — both because at that time there was no means by which a young man could so easily be brought into public notice as by writing in that work; and, more indirectly, because, without imputing any improper motive, his name has scarcely ever appeared in it with the approbation it deserves. In other respects, however, the circumstance was perhaps not to be regretted. There are minds to which the neglect of their contemporaries is not disadvantageous; and the facilities to immediate applause, enjoyed by a contributor to a popular periodical publication, are not always favourable to those habits that seem necessary for the production of a work of permanent fame. Though repeatedly and earnestly solicited to join again the Edinburgh Review, he constantly declined; and he was never afterwards connected with any individual in any literary work. — *Life of Brown by Welsh*, p. 79—81.

In a Note at Page 506. of the Volume the Subject of the foregoing Remarks is again reverted to in the following Terms.

THOUGH the distinguished individual who at present conducts the Edinburgh Review\* had the superintendence of the papers from the commencement, he was not nominated Editor till the publication of the fourth number; and the publication of the third number was, in his absence, intrusted to the care of a gentleman who has long been known as one of the most popular contributors to its pages.† It may be proper to add, that none of these eminent individuals allowed this unfortunate misunderstanding to lessen their sentiments of mutual regard, or to interfere with their habits of intimacy. Dr. Brown had prepared some materials for the fourth number, which were never used. In particular, he had written a very ingenious paper on the second volume of Miss Baillie's Plays. An able article, but in a very different spirit, upon the same work, appeared from another hand. This he regretted no farther than as he was prevented from bearing testimony to the merits of an author of whose genius he entertained a very high idea. He used to take credit to himself for being one of the first in Edinburgh who appreciated her excellences; and he regretted that her works had not met with a more favourable reception. Upon the subject once being mentioned, I recollect he said, with a smile, "I really consider this to be one of the great heresies of the Edinburgh Review."

In stating that Dr. Brown's name has scarcely ever appeared in the Edinburgh Journal with the approbation it deserves, I must except the very flattering allusion to the first edition of his work "On Cause and Effect," to which reference is made in another part of this work. "The Paradise of Coquettes" also met with a very high eulogium; but without any idea that he was the author. Indeed, till after his death, his *name* was never mentioned either as a poet or philosopher. In a late number a pledge has been given, which it is anxiously hoped will be speedily redeemed.\*

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\* Mr. Jeffrey is the gentleman here alluded to. He was the Editor of the Review at the period when these observations were written.

† Probably the Rev. Sidney Smith.

‡ The article on Drs. Brown and Reid, republished in Vol. III. of this work, is the only one that has appeared since the foregoing observations were written by the Rev. D. Welsh.



## No. VI.

## ON THE UTILITY OF THE PHILOSOPHY OF THE MIND.

The Controversy to which the subjoined Observations refer is mentioned in a Note to Vol. III. Page 19.

THE philosophy of the mind, in order to have any chance of improving upon former advances, must share at least some degree of that estimation which the other sciences enjoy. But we are told by some persons, that when the pretensions of this boasted philosophy are sifted to the bottom, it will be found that it is incapable of making any substantial additions either to our knowledge or to our power. To counteract these depreciatory views is the main object of Mr. Stewart in his preliminary dissertation. He rightly judges that his favourite science has much at issue in such an investigation. The public seems already sufficiently disposed to neglect, if not to undervalue it; and if the idea should prevail, that it has nothing either *new* or *useful* to communicate, it is pretty clear that all remaining curiosity about the laws of the intellectual world would be extinguished, and all farther improvement of this great and interesting department of knowledge entirely abandoned. The occasion of this important discussion, which occupies the far greater part of the preliminary discourse, is stated by Mr. Stewart in the following passage:—

“When I first ventured to appear before the public as an author, I resolved that nothing should ever induce me to enter into any controversy in defence of my conclusions, but to leave them to stand or to fall by their own evidence. As this indifference, however, about the fate of my particular doctrines, arose from a deep-rooted conviction, both of the importance of my subject, and of the soundness of my plan, it was impossible for me to be insensible to such criticisms as were directed against either of these two fundamental assumptions. Some criticisms of this description I had, from the first, anticipated; and I would not have failed to obviate them in the introduction to my former work, if I had not been afraid to expose myself to the imputation of prolixity, by conjuring up objections for the purpose of refuting them. I longed, therefore, for an opportunity of being able to state those objections in the less suspicious words of another; and, still more, in the words of some writer whose talents might contribute to draw the public attention to an argument, in which I conceived the credit of my favourite studies to be so peculiarly interested. For such an opportunity I am indebted to a very able article in the *Edinburgh Review*, in replying to which I shall have occasion to obviate most of the objections which I had foreseen, as well as various others which, I must own, had never occurred to me.” — *Prel. Dissert.* pp. 29, 30.

The article to which Mr. Stewart here particularly refers is the review of the excellent account which he some years ago published of the Life and Writings of Dr. Reid. In his survey of the scope and spirit of that great philosopher's writings, he insisted a good deal upon the general analogy between the inductive science of mind and the inductive science of matter; maintaining, that the same rules of philosophising were equally applicable, and equally promised advancement to both. In the article alluded to, it was on the other hand argued, that induction can only be applied to the study of the mind in the way of *observation*,—that observation without experiment never increases our *power*,—and that *all* that the observer of mind can do, is merely to classify and give names to phenomena perfectly *notorious* to all mankind. Mr. Stewart here largely controverts all those positions, and vindicates the claims of the philosophy of the mind to increase both our knowledge and our power, in terms to which all must allow the praise of uncommon eloquence; but the vindication would, we think, have been more complete, had he illustrated with greater precision the nature and results of intellectual analysis, and developed more fully the relations which connect this science with the other branches of our knowledge. His reply, however, is, upon the whole, powerful and conclusive; and as it necessarily calls upon us to advert to the arguments of his antagonist, we think it right once for all to state, that we greatly admire the acuteness and fertility of thought with which they are sup-

ported, and regret that such rare talents for metaphysical speculation should be employed to underrate the importance of metaphysical science.

The position which this writer so confidently maintains, "that the metaphysical enquirer can disclose *nothing* of which *all* his pupils were not previously aware," appears to us, we must say, to be nothing less than absurd; and has led the critic into inconsistencies which all his ingenuity has not been able to veil. The epithets of "*important*" and "*valuable*," so liberally bestowed upon the speculations of Mr. Stewart, would come very well from a writer who admitted the *usefulness* of metaphysical enquiry; but we profess ourselves unable to discover how they can be made to tally with an argument intended to prove that all ideas of metaphysical utility are visionary, and that mankind would have lost nothing though the philosophy of the mind had never existed. Neither do we see how any one can talk of Locke as worthy of being ranked with Newton, who wishes to make us believe that this great metaphysician could only draw the attention of mankind to conclusions just about as notorious as these,—“that each of us has ten fingers and ten toes, and a certain number of teeth, distinguishable into masticators and incisors!” How, again, can any science be remarkable for “profundity,” *all* the truths of which are said to be just as much known to the clown as to the philosopher? Or what can there be “to gratify and exalt a keen and aspiring *curiosity*,” where discoveries are “obvious and easy to such humble judges of intellectual resource as horse-jockeys and bear-dancers!”

But, leaving these incongruities and witticisms, we proceed to remark, that the metaphysical disputes which obtain among mankind would be utterly unaccountable, were it true, as the Reviewer maintains, that all men have equal knowledge of all the operations of their minds. Without going back to those dark and unscientific ages, when false metaphysics constituted

“The schoolman’s glory and the churchman’s boast,”

we would beg to be informed, how the most enlightened men come, at this day, to be divided in opinion regarding intellectual phenomena, as to which, upon this principle, every person knows *all* that it is possible to know? How could any opinion about the mind be shown to be erroneous, if the knowledge of the phenomena of mind is of the same kind in *all*? If we all know, absolutely, every thing that can be known about the laws which regulate our intellectual operations, how comes it that there is ever any hesitation or any difference of opinion as to the question of the freedom of the will, for example,—or, as to the *principle* upon which we approve and disapprove in matters of morality,—or, as to the *origin* and *character* of our passions and affections? There could evidently be no difficulty or difference as to these or any other questions regarding our intellectual constitution, if all the connections and laws of mental operation,—if the *genesis* of all our ideas and feelings were equally and perfectly known to every one. We may here observe, that the disputes and uncertainties to which we have alluded give no ground to the opinion which we often hear from the superficial, that there is nothing satisfactory in the science of the mind,—that all its principles are unsettled,—and that there is no hope of farther light. The uncertainties which still hang over some of its principles afford, indeed, a proof that we have something to *discover*, and, therefore, a proof that the Reviewer’s assertion is wholly unfounded; but no proof whatever that we shall never attain to a state of greater knowledge and certainty. Many errors, by which the progress of this science was long impeded, have at length disappeared; and many points, long contested, have been finally settled by more enlightened enquiries. There is, therefore, every reason to conclude that, by persevering in the proper road of investigation, farther advances will yet be made, and the domain of uncertainty more and more narrowed. *Si homines per tanta annorum spatia viam veram inveniendi et colendi scientias tenuissent, nec tamen ulterius progredi potuissent, audax procul dubio et temeraria foret opinio, posse rem in ulterius provehi. Quòd si in via ipsa erratum sit, atque hominum opera in iis consumpta, in quibus minimè oportebat; sequitur ex eo, non in rebus ipsis difficultatem oriri, quæ potestatis nostræ non sunt; sed intellectu humano, ejusque usu et applicationi; quæ res remedium et medicinam suscipit.\**

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\* Nov. Organ. lib. i. aph. 94.



The great argument of the Reviewer is, that it is absurd to suppose mankind can have any thing new to learn about phenomena of which all have been *conscious*. We are all equally conscious of all our intellectual operations; and, therefore, to talk of *discoveries*, within the sphere of consciousness, is an abuse of words. It is upon this ground he concludes, that the philosopher cannot tell even the clown any fact about his internal constitution of which he was not aware before. "We all arrive," says he, "*at a perfect knowledge of our minds, as we do of our native parish, without study or exertion.*" What a striking contrast between this opinion and that of Mr. Hume! — "To hope," says this penetrating writer, "that we shall arrive at the knowledge of the mind without pains, while the greatest geniuses have failed with the utmost pains, must certainly be esteemed sufficiently vain and presumptuous." They, indeed, who have ventured to look closely into their minds, with a view to any disputed metaphysical principle, or who recollect what has been said by all the greatest philosophers of the peculiar difficulty attending the scrutiny of the intellectual phenomena, and the very opposite judgments which have been delivered in regard to them — such persons will be not a little startled, we should think, to be told that, after all, we have a perfect knowledge of our minds, and that too independent of all study or exertion! We are not at all interested to determine whether or not the word *discovery*, when used with strict propriety, can be applied to the conclusions of the metaphysician regarding the laws of mind. If the intellectual philosopher is not to be ranked as a discoverer, because all the facts with which his science is conversant have always existed in our consciousness, this is merely a matter of verbal criticism; and does not at all affect the proposition, that our knowledge of the laws to which these facts belong is capable of being substantially increased by metaphysical enquiry. It is true, that we are all equally conscious of all the intellectual functions; but it does not by any means follow, that our actual knowledge of them is equal and perfect. Were that the case, it would be impossible, as we have already shown, to account for the difficulties and contradictions of metaphysical science. *Consciousness* is merely that *involuntary* and *momentary* perception which the mind has of any *present* thought or feeling. Its fugitive intimations leave no traces whatever in the memory, and only become subservient to our knowledge of the laws which regulate the intellectual phenomena, in so far as they are made the objects of careful and continued *reflection*. It is owing to the great difficulty and complexity of this operation, and the fugitive and subtle nature of its objects, that there is so much uncertainty and contradiction in our metaphysical opinions. Reflection involves the deliberate exercise of attention, recollection, and comparison; — processes to which the bulk of mankind never think of subjecting their thoughts, but to which it is necessary habitually and methodically to subject them, in order to arrive at an accurate knowledge of the laws of the mind. It is only in this way that we can discover the latent relations and dependencies of its various phenomena; and every unnoticed relation which reflection enables us to perceive, forms a real addition to our intellectual knowledge. If, then, careful and methodical attention to, and comparison of, the phenomena of thought be necessary to a thorough understanding of their laws, it must surely be altogether absurd to maintain that we arrive at "*a perfect knowledge of our minds, as we do of our native parish, without study or exertion.*" If that momentary perception of our present thoughts which constitutes consciousness be of no avail towards this knowledge, without reflection and comparison; it follows, that our knowledge must be in some proportion to the care and ability with which these difficult processes are performed.

All our intellectual operations and feelings include or are connected with a complication of ideas and circumstances; and it is only by carefully analysing these by means of reflection, that the nature and laws of any operation or feeling can be fully understood. Of the nature and results of this kind of analysis the Reviewer appears to have conceived very indistinct and inadequate notions. He thinks that there is nothing equivalent to analysis in any process which we can apply to the mind, because there is no process which enables us to subject its powers and qualities to actual decomposition. But, though we cannot decompose the mind itself, or its primary functions, we have surely full scope for analysis in unravelling



the various and complicated phenomena which they produce ; and in tracing and developing the various ideas and circumstances which combine in, or are connected with, our different operations and feelings. In this way we are enabled to detect ideas, and connections of mental operation, wholly unsuspected by those who have not been instructed by metaphysical analysis. "That by such processes," to use the words of a writer of the greatest metaphysical acumen, "we perform in mind an office similar, in effect, to that of the chemist in external matter, is scarcely perceived by us ; because the frequent use of material solvents, with the vivid and well marked changes which they present to our organs of sense, tends to induce the belief that, where such solvents are not employed, there is no analysis : but reason is itself the instrument of analysis in mind. The subject and the instrument, it is confessed, are different ; but in every other respect the parallel is complete. We analyse our thoughts, by reflection, as we analyse matter by the use of other matter. The mere functions indeed, as the powers of memory and comparison, we do not attempt thus to simplify, but only the ideas remembered and compared ; just as we never attempt to analyse corpuscular attraction or repulsion, but only to separate the heterogeneous particles which are attracted or repelled. It is some general function, however, that most readily occurs to us when we think of mind ; and as all men know equally well that they remember and compare, a superficial thinker may thus be led to conceive, that all men know equally well the complex intellectual phenomena included in those functions." \*

That the enquiries of the metaphysical analyst have often afforded explanations and results far from "notorious" to the multitude, is, we think, beyond all dispute. In order to illustrate this position, we may, for example, refer to Mr. Alison's analysis of *beauty*, by which it is shown that the whole beauty of any material thing consists in *its expression* ; — that is, in its being, either by natural or accidental association, the sign or suggesting cause of some quality of mind naturally fitted to excite agreeable emotion. Will any one say that there is nothing new, nothing but what is familiarly known to all mankind, in the results of this striking analysis ? Its conclusions are, in fact, directly contrary to the belief of the multitude. We question if chemical analysis has ever produced any thing more calculated to surprise or to stagger an ordinary mind than the proposition, that all the beauty with which

——— " This goodly frame  
Of nature touches the consenting hearts  
Of mortal man, "

is but the reflection of the feelings and sympathies of the fugitive beings who inhabit it. And what impressive views of the wonders of our intellectual frame, and of the beneficent purpose of Nature in rendering the beauty and sublimity of material things dependent on their expression of mental qualities, does not this analysis lay open ? If the Reviewer believes in this theory, as appears to be the case, how can he, with any sort of consistency, deny that the metaphysical enquirer may often be able, by a more correct analysis of intellectual phenomena, to make interesting additions to the philosophy of the mind ?

Again, all our philosophical readers must be well acquainted with the extraordinary fact that the *eye*, which seems to extend its ken so wide, cannot of itself enable us to judge of the distance or magnitude of the nearest object within our horizon. The fact is intimately connected with some views of the philosophy of the mind which directly militate against the Reviewer's conclusion. If distance is not *immediately* perceived by the eye, in what manner do we come to acquire the power of judging of distances and magnitudes by means of that organ ? Bishop Berkeley was the first who explained the nature of this wonderful process ; and surely it would be absurd to say that he thereby added nothing to our previous knowledge of the laws of perception. Had philosophers, we ask, always the *same knowledge* of the mental phenomena connected with our perceptions of sight, before, as after the discoveries of Bishop Berkeley ? Or, do mankind in

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\* Observations on Cause and Effect, by Thos. Brown, M.D., Prof. Moral Phil. in Univ. Edinh., Introduction, pp. 19, 20.



general know, that their every judgment about distance is preceded by a process of comparison between the perceptions of *sight* and *touch*; and that it is only in consequence of a habit early acquired, of comparing the associated communications of these two senses, that they come to be able to form such judgments? These questions cannot, we maintain, be fairly answered without affording a demonstrative proof that the proposition so dogmatically asserted, that the knowledge of the laws and procedure of the mind always was and is the same in all men, is totally destitute of foundation. It was, we may add, none of the least interesting results of Bishop Berkeley's analysis of our perceptions of sight, that it afforded the most striking of all proofs, that the mind may carry on intellectual processes which leave no trace whatever in the memory; a fact very necessary to the illustration of some other acquired powers and habitudes of the understanding.

The law of *association* furnishes, in its multifarious modes and applications, a wide field of philosophical enquiry. We are indeed told, "that the groom who never heard of the association of ideas, feeds the young war-horse to the sound of the drum:" but does this prove that he has nothing to learn about this law but its name? that his untutored mind already embraces all that can be known of its extent, modes, and applications? Such a supposition is too ridiculous to be seriously discussed. The enquiries of modern philosophers have contributed essentially to enlarge our views of this master principle. They have traced its effects in every corner, as it were, of the human mind. They have pointed out the extensive influence which it exercises upon our judgments in matters of morality, of speculation, and of taste. They have shown its ministry in the formation of various kinds of habits, and have traced to it some of our most powerful, active principles, and many of the prejudices, superstitions, and other aberrations to which the mind is exposed. Nor is the field of discovery yet exhausted: indeed, the Reviewer himself admits that there is room for enquiry, "both in respect to the certainty and the extent of the application of this principle;" an admission, it must be remarked, quite irreconcilable with his grand dogma, that the metaphysician is necessarily limited to the mere classification of phenomena always known, and known to all mankind.

The history of the progress of knowledge, in regard to the laws and uses of the faculty of *abstraction*, strongly corroborates our preceding remarks. Much new light has unquestionably been thrown upon this part of our intellectual constitution by the profound investigations of some modern metaphysicians, particularly Berkeley, Condillac, and our present author. It is to those philosophers that we are indebted for the accurate developement of the nature of the process of abstraction, and the important purposes to which it is subservient. The truths which they have discovered have, in part, effected a revolution in the opinions of philosophers regarding the nature of general reasoning and abstract science. Yet we are told that there is nothing new in metaphysics, and that all its principles were familiarly known from the beginning! In opposition to this strange doctrine, we shall only farther add, that the enquiry into the *origin of ideas* has, in modern times, led to some views of the natural history and connections of our mental operations, exceedingly remote from ordinary observation; and which, as Mr. Stewart observes, are of the greatest importance, because they furnish the only solid basis of that part of logic which relates to the theory of evidence.

We do not think it necessary to enter at any great length into the question, whether or not the philosophy of the mind admits of experiments. "Its extensive province in this science must," says Mr. Stewart, "be evident to those who have attended to the use which has been made of this organ of investigation, in aiding the analysis of the phenomena of attention — of association — of habit in general — of memory — of imagination; and, above all, those which are connected with the use of language, considered as an instrument of thought and of reasoning." He farther observes, that "to draw the line between the original and acquired perceptions which we receive by some of our senses, is a problem equally difficult and interesting; and of which no pretended solution would, in the present times, attract one moment's notice, which rested on any other basis than that of experiment." As to the minds of others, it is very true that we cannot



place them at will in new conjunctures, as we can pieces of matter, in order to observe the result; but to counterbalance the disadvantages which the philosophy of the mind lies under from its want of experiments made directly and intentionally on the minds of our fellow creatures, it is to be recollected, says Mr. Stewart, that —

“ Human life exhibits to our observation a boundless variety both of intellectual and moral phenomena, by a diligent study of which we may ascertain almost every point that we could wish to investigate, if we had *experiments* at our command. The difference between observation and experiment, in this instance, considered as sources of knowledge, is merely *nominal*; amounting to nothing more than this, that the former presents spontaneously to a comprehensive and combining understanding results exactly *similar* to those which the latter would attempt to ascertain by a more easy and rapid process, if it possessed the opportunity. Hardly, indeed, can any experiment be imagined which has not already been tried by the hand of nature; displaying, in the infinite varieties of human genius and pursuits, the astonishing diversified effects resulting from the possible combinations of those elementary faculties and principles of which every man is conscious in himself. Savage society, and all the different modes of civilisation; — the different callings and professions of individuals, whether liberal or mechanical; — the prejudiced clown; — the factitious man of fashion; — the varying phases of character from infancy to old age; — the prodigies effected by human art in all the objects around us; — laws; — government; — commerce; — religion; — but, above all, the records of thought preserved in those volumes which fill our libraries; what are they but *experiments*, by which Nature illustrates for our instruction, on her own grand scale, the varied range of man’s intellectual faculties, and the omnipotence of education in fashioning his mind?” — *Prel. Dissert.* p. 45.

It is an error to say that Mr. Stewart innovates upon the common understanding of philosophers, in regard to the mode of studying the mind, when he brings the observation of these appearances within its province; and it is equally in error to argue that he has himself precluded the metaphysician from this kind of observation by his own definition, which peremptorily limits the study to “attention to the subjects of our consciousness.” This definition is obviously intended to distinguish the *inductive* investigation of the *phenomena* of mind from conjectural speculation as to its *mechanism*, — not to prohibit the enquirer from attaining, as far as their outward signs will enable him, to the operations and feelings of other minds, as well as to those of which he is immediately conscious in his own. There is no good reason, surely, why the intellectual philosopher should not endeavour, in his enquiries regarding the powers and principles of our common nature, to collect whatever information he can from the varied phenomena of human life. The language which Mr. Stewart holds upon this point is in no respect different from that of preceding philosophers. We could easily accumulate authorities, but shall content ourselves with the following: — “The records of wars, intrigues, factions, and revolutions,” says Mr. Hume, “are so many *collections of experiments*, by which the *moral philosopher fixes the principles of his science*; in the same manner as the natural philosopher becomes acquainted with the nature of minerals, and other external objects, by the experiments which he forms concerning them.” \*

It will still be necessary, before we close these hasty remarks, to make one or two observations as to the practical utility of the science of the mind. The Reviewer assumes it as a principle that mere *observation* never increases our power; and as he denies that the philosophy of the mind has any connexion with *experiment*, he accordingly draws the disparaging conclusion that, with regard to it, “knowledge is *not* power.” Mr. Stewart contends, as our readers have seen, that this science does admit of experimental aids; but admitting, he adds, “that all the knowledge we possess of mind is derived from *observation* solely, it would not therefore follow, that the philosophy of the mind must necessarily yield to experimental philosophy in practical utility.” And in illustration of *this*, he successfully appeals to the practical uses to which the *observation*

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\* Essay on Liberty and Necessity.



of the heavenly bodies was applied, long before any experiments were thought of to perfect the theory of the planetary system.

“It is an old, but very striking reflection,” he impressively observes, “that the only accurate knowledge which man possesses of the surface of the earth has been derived from the previous knowledge he had acquired of the phenomena of the stars. Is it possible to produce a more apposite or a more undeniable proof of the universality of Bacon’s maxim that ‘*knowledge is power*,’ than a fact which demonstrates the essential aid which man has derived, in asserting his dominion over this lower world, from a branch of science which seems, at first view, fitted only to gratify a speculative curiosity; and which, in its infancy, served to amuse the leisure of the Chaldean shepherd? To those who have imbibed the spirit of Bacon’s philosophy, it is superfluous to add, that it was in this refined and enlarged sense of his aphorism, far more than in its obvious and partial application to the new resources which experiments have occasionally lent to the mechanician, that Bacon himself wished to be understood, when he so often repeats it in the same words, with an air of triumph, in the course of his writings.” — *Prel. Dissert.* p. 39.

Mr. Stewart admits that our conclusions concerning the principles and laws of the human constitution differ, in many respects, from discoveries in physics; but this, he justly observes, ought not to lower our estimate of their practical value, or of the merits of the writers to whom we owe them. “Among Bacon’s *Aphorisms* there is not,” he adds, “one sentence which contains a *discovery*, as that word has been lately defined: but what discoveries can vie with them, in the accessions which they have brought to the happiness and to the *power* of the human race?”

No opinion was ever, we think, founded upon more limited or more erroneous views than that which represents all metaphysical speculation as terminating entirely in itself, and as affording no useful aids in any of our other pursuits.

It is evident, we think, that that science which teaches us how to trace error to its source, — how, and within what limits, to conduct our enquiries, in order to conduct them with success, — cannot, without great abuse of language, be said to be unproductive of utility or power. Now, it is the philosophy of the mind, and it alone, which teaches all this. It was the opinion of D’Alembert, who certainly cannot be accused of entertaining too lofty views of the importance of this science, that it furnishes the only means of correcting the errors to which we are liable in all our speculative enquiries; and he seems to have thought it indispensable to the philosophical character to view it in that light. “*A l’égard de la métaphysique*,” says he, “*il paroît que Newton ne l’avoit pas entièrement négligée. Il étoit trop grand philosophe pour ne pas sentir qu’elle est la base de nos connoissances, et qu’il faut chercher dans elle seule des notions nettes et exactes de tout.*”\* If this account of metaphysical science be just, upon what ground can it be said that it is divested of practical utility? Is not the power which it furnishes of purifying the sources of reasoning, of correcting prejudice and error, a very useful, and noble, and extensive species of power? Do not the enquiries of the metaphysician enable him to regulate his own judgments, and to direct those of others? The *effects* which his speculations produce are often felt far more widely than any that can be produced by physical discovery. The Reviewer himself tells us, that the famous theory which accounted for perception, and all our other intellectual operations, by means of ideas or images in the mind, led at length to “*the annihilating scepticism of Hume.*” It is also his opinion, that Dr. Reid completely overthrew the hypothesis upon which, according to him, the portentous scepticism of Hume was founded. How then can he deny the character of utility — of power, to those metaphysical enquiries by which human reason was disentangled from the effects of such a scepticism? Dr. Reid’s success was entirely owing to a more correct analysis of certain intellectual phenomena than had been accomplished before: and yet we are told that this sort of analysis cannot be applied to any practical purposes, — by a writer, too, who admits that it took away the supports of a system of scepticism eminently calculated to unhinge the opinions and principles of mankind. No one who is at all conversant in the history of philosophy can be ignorant of the famous hypothesis of the real existence of abstract ideas, and

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\* Discours Prélim. de l’Encyclop.



the obstacles which it opposed to the progress of knowledge. That absurd hypothesis, as has been shown by Berkeley, and more largely by Condillac, was the cause that all speculation, and all abstract science, were long involved in error and mysticism. Its overthrow must, therefore, have proved a general benefit to philosophy; and this was accomplished by the accurate examination of the laws of the mind in the case of abstraction. We have here, then, a proof that the philosophy of the mind exerts an influence over all the other sciences, and that they have all a near interest in its successful cultivation.

We are told by Locke in the simple but instructive account which he gives of the origin of his immortal work, that, upon an occasion when he was engaged in a philosophical discussion with some of his friends, "they all at once came to a stand, from the difficulties which arose on every side. At last," says he, "it came into my thoughts that we took a *wrong course*; and that, before we set ourselves upon enquiries of that nature, it was necessary to examine *what objects our understandings were and were not fitted to deal with.*" It is impossible, we think, to know any thing of the history of the manifold errors which have arisen from "a wrong course" of enquiry, and from not knowing what things "the understanding was and was not fitted to deal with," without perceiving the vast importance of the philosophy of the mind. The whole system of philosophical knowledge remained corrupt for ages, from the ignorance in which men were of the limits of the understanding, and of the rules which its laws enjoin them invariably to follow in the search of truth. What errors — what waste of ingenious labour, in *physics*, has not the attempt to discover the causes or necessary connections of natural events produced! The whole history of that science is full of hypotheses, which arose from the misconceptions of philosophers regarding physical causes or connections. The vain pursuit of these has, therefore, operated as a material obstruction to the progress of genuine science. Now, if it be indisputable, as it unquestionably is, that *metaphysical* analysis has at length demonstrated the folly of such pursuits, and fixed the true course and boundaries of physical enquiry, how short-sighted must not that view of the philosophy of the mind appear which represents it as without influence upon the other sciences, and entirely destitute of the character of practical utility!

The great father of experimental philosophy thought more justly of this important science. He points out the study of the powers and faculties of the mind, as that *which furnishes the keys of all other knowledge*.\* "As the hand," says he, "is instrumental to all other instruments, so is the knowledge of the mind instrumental to all other knowledge." And no observation can appear more just, when we consider that it was from this source that he derived his great *organon* of discovery. To his just and profound views of the laws of the human understanding, we are indebted for that inductive logic which has exercised so vast and so beneficial an influence on the progress of human knowledge. What, indeed, is the inductive philosophy of Bacon but that branch of the philosophy of the mind which teaches us how to apply our faculties with success in the discovery of truth? When, therefore, the Reviewer talks of "the *absolute nothingness of the effects* which have been produced by the study of the mind," he does not seem to have duly attended to the fact, that the *whole* of philosophy has been purified of fundamental errors and misconceptions by the lights reflected from this very study; and that it was these lights which pointed out the road to physical truth, and traced the legitimate boundaries of physical science.

The utility of the philosophy of the mind must appear, we think, very obvious to every one who recollects that it forms the groundwork of all the moral and political sciences. They are, in fact, only dependent provinces of this "capital and centre," as Mr. Hume calls it, of human knowledge. If we would know their foundations and springs, we must trace them to the powers, and principles, and feelings of our intellectual constitution. There can be no scientific reasoning in regard to them that is not bottomed upon that foundation. All their fundamental ideas and principles derive their explanation and their authority from the

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\* De Augmen. Scient. lib. v. cap. 1.



laws of the mind. The analysis of its various powers and principles seems, as Mr. Bentham has remarked in one of his profound works upon the subject of legislation, to be as necessary to the science in question, as the anatomy of the body is to the other branches of medical knowledge. These views have, we may add, the invaluable sanction of Bacon's authority; for he distinctly points out the analytical examination of the principles and affections of the human mind as the nourishing source of all civil and political philosophy.\* — *Quarterly Review*, vol. vi. pp. 5—18.

## No. VII.

### THE DOCTRINE OF PREDESTINATION.

The following Note from the "Dissertation on Ethical Philosophy," prefixed to the new Edition of the *Encyclopædia Britannica*, written by Sir James Mackintosh, is referred to in Vol. III. page 164.

THE writer of this discourse was led, on a former occasion, by a generally prevalent notion, too nearly to confound the theological doctrine of predestination with the philosophical opinion which supposed the determination of the will to be, like other events, produced by adequate causes. More careful reflection has corrected a confusion to him with most writers on the subject. What is called *Sublapsarian Calvinism*, which was the doctrine of the most eminent men, including Augustin and Calvin himself, ascribed to God, and to man before the fall, what is called free-will; which they even own still to exist in all the ordinary acts of life, though it be lost with respect to religious morality. The decree of election, on this scheme, arises from God's foreknowledge that man was to fall, and that all men became thereby with justice liable to eternal punishment. The election of some to salvation was an act of divine goodness; and the preterition of the rest was an exercise of holiness and justice.

This sublapsarian predestination is evidently irremediable with the doctrine of necessity, which considers free-will, or volitions not caused by motives, as absolutely inconsistent with the definition of an intelligent being; which is, that he acts from a motive, or, in other words, with a purpose.

This supralapsarian scheme, which represents the fall itself as fore-ordained, may, indeed, be built on necessitarian principles. But, on that scheme, original sin seems wholly to lose that importance which the former system gives it as a revolution in the state of the world, requiring an interposition of Divine power to remedy a part of its fatal effects: it becomes no more than the first link in the chain of predestined offences. Yet, both Catholic and Protestant predestinarians have borrowed the arguments and distinctions of philosophical necessitarians. One of the propositions of Jansenius, condemned by the bull of Innocent X., in 1653, is, that "to merit or demerit in a state of lapsed nature, it is not necessary that there should be in man a liberty free from necessity; it is sufficient, if there be a liberty free from constraint." (DUPIN, *Histoire de l'Eglise en abrégé*, Siècle XVII. livre iv. chap. 8. page 193.) Luther, in his once famous treatise *De Servo Arbitrio*, against Erasmus (printed in 1526), expresses himself as follows: — "Hic est fidei summus gradus, credere illum esse clementem qui tam paucos salvat, tam multos damnat; credere justum qui sua voluntate nos necessario damnabiles facit, ut videatur, ut Erasmus refert, delectari cruciatibus miserorum, et odio potius quam amore dignus." My copy of this stern and abusive book is not paged. In another passage, he states the distinction between coercion and necessity as familiar a hundred and thirty years before it was proposed by Hobbes, or condemned in the Jansenists. "Necessario dico, non coacte, sed, ut illi dicunt, necessitate immutabilitatis, non coercionis; hoc est, homo, cum vocat Spiritus Dei, non quidem violentia, velut raptus obtorto collo, nolens facit malum, quemadmodum fur aut latro nolens ad pœnam ducitur, sed sponte et libera voluntate facit." He uses also the illustration of Hobbes, from the difference between a stream forced out of its course, and freely flowing in its channel. — *Appendix to the Dissertation on Ethical Philosophy*, p. 423.

\* Nov. Organ. Aph. 80. lib. 1.

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